

**AN ACT
D.C. ACT 15-721**

**IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005**

To approve, on an emergency basis, the award of task orders placed against Human Care Agreement No. PO-JA-2003-HC-011-040 for residential services for persons with mental retardation and developmental disabilities and to authorize payment for the services received under that agreement.

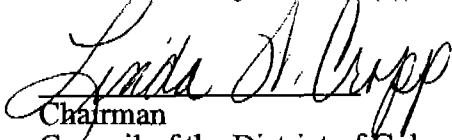
BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Human Care Agreement No. PO-JA-2003-HC-011-040 with National Children's Center Approval and Payment Authorization Emergency Act of 2004".

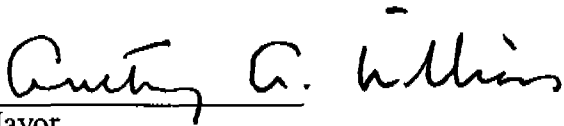
Sec. 2. Notwithstanding the requirements of section 105a of the District of Columbia Procurement Practices Act of 1985, effective March 8, 1991 (D.C. Law 8-257; D.C. Official Code § 2-301.05a), Task Orders Nos. PO-JA-2003-HC-011-040-AH19 through PO-JA-2003-HC-011-040-AH27 which cumulatively total over \$1 million and proposed Task Orders Nos. PO-JA-2003-HC-011-040-AH28 through PO-JA-2003-HC-011-040-AH36, which became effective October 1, 2004 and expire February 9, 2005, that were placed against Human Care Agreement No. PO-JA-2003-HC-011-040 for the provision of necessary residential services for persons with mental retardation and developmental disabilities prior to Council approval are approved and payment is authorized for services received under that agreement.

Sec. 3. The Council of the District of Columbia adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
January 19, 2005

AN ACT

D.C. ACT 15-722

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005

To approve, on an emergency basis, the award of Contract No. POFA-2004-C-0001 for automated traffic enforcement equipment and services, and to authorize payment for the services received under that contract.

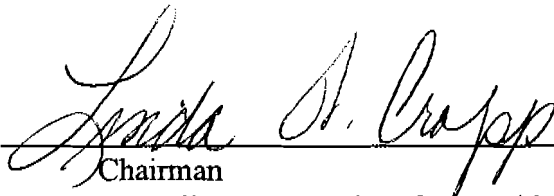
BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Contract No. POFA-2004-C-0001 Approval and Payment Authorization Emergency Act of 2004".

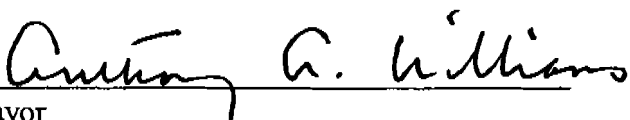
Sec. 2. Notwithstanding the requirements of section 105a of the District of Columbia Procurement Practices Act of 1985, effective March 8, 1991 (D.C. Law 8-257; D.C. Official Code § 2-301.05a), Contract No. POFA-2004-C-0001 for automated traffic enforcement equipment and services is approved and payment is authorized for services received under that contract.

Sec. 3. The Council of the District of Columbia adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87

Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-723
IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

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Publisher

To amend, on an emergency basis, the Anacostia Waterfront Corporation Act of 2004 and the Anacostia Waterfront Corporation Emergency Act of 2004 to ensure that there is an appropriate number of board members on the Corporations board by adding 2 new board members to be filled by a recognized labor union organization and a recognized environmental organization.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Anacostia Waterfront Corporation Board Expansion Emergency Amendment Act of 2004".

Sec. 2. The Anacostia Waterfront Corporation Act of 2004, effective December 7, 2004 (D.C. Law 15-219; 51 DCR 9142), is amended as follows:

(a) Section 105(a) is amended as follows:

(1) The lead-in text is amended to read as follows:

"The powers of the Corporation shall be vested in a Board of Directors which shall consist of the following 9 voting members, and may include 4 nonvoting members to be selected as follows:"

(2) Paragraph (1) is amended as follows:

(A) Subparagraph (A) is amended by striking the word "Seven" and inserting the word "Nine" in its place.

(B) New subparagraphs (E) and (F) are added to read as follows:

"(E) One public citizen member shall be a representative of a recognized labor union organization.

"(F) One public citizen member shall be a representative of a recognized environmental organization."

(b) Section 107(a) is amended by striking the phrase "not less than 4 of these voting" and inserting the phrase "not less than 5 of these voting" in its place.

Sec. 3. Anacostia Waterfront Corporation Emergency Act of 2004, effective November

DISTRICT OF COLUMBIA REGISTER

ENROLLED ORIGINAL

1, 2004 (D.C. Act 15-586), is amended as follows:

(a) Section 105(a) is amended as follows:

(1) The lead-in text is amended to read as follows:

"The powers of the Corporation shall be vested in a Board of Directors which shall consist of the following 9 voting members, and may include 4 nonvoting members to be selected as follows:"

(2) Paragraph (1) is amended as follows:

(A) Subparagraph (A) is amended by striking the word "Seven" and inserting the word "Nine" in its place.

(B) New subparagraphs (E) and (F) are added to read as follows:

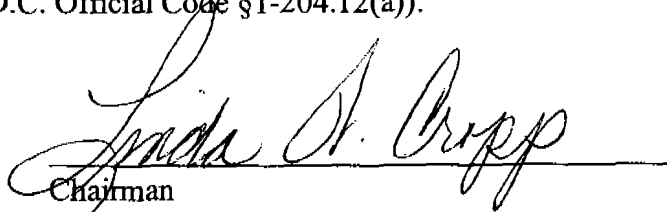
"(E) One public citizen member shall be a representative of a recognized labor union organization.

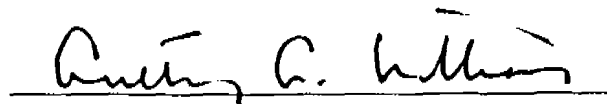
"(F) One public citizen member shall be a representative of a recognized environmental organization."

(b) Section 107(a) is amended by striking the phrase "not less than 4 of these voting" and inserting the phrase "not less than 5 of these voting" in its place.

Sec. 4. The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 5. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code §1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED

January 19, 2005
Council of the District of Columbia Official Code, 2001 Edition

AN ACT
D.C. ACT 15-724IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend, on an emergency basis, Title 16 of the District of Columbia Official Code to require the appointment of a guardian ad litem within 24 hours of a child being taken into custody due to a substantiated allegation of abuse or neglect, to require that a shelter care hearing commence within 72 hours after a child has been taken into custody, to authorize the Child and Family Services Agency to convene a family team meeting within the 72-hour period to solicit the assistance of family members, relatives, social service workers, and the guardian ad litem in developing a safety plan for a child, and to require independent evaluations 6 months, 18 months, and 30 months after the effective date of this act to assess the impact of the 72-hour time frame and the family team meetings.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Child in Need of Protection Emergency Act of 2004".

Sec. 2. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-2312 is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) When a child is not released as provided in section 16-2311 and the child is alleged to be abused or neglected:

"(A) A *guardian ad litem* shall be appointed to represent the child's best interest within 24 hours (excluding Sundays) of the child having been taken into custody;

"(B) A shelter care hearing shall be commenced not later than 72 hours (excluding Sundays) after the child has been taken into custody; and

"(C) A petition shall be filed at or prior to the shelter care hearing.

"(2) When a child is not released as provided in section 16-2311 and the child is alleged to be delinquent or a child in need of supervision:

"(A) A detention hearing shall be commenced not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 16-2302; and

"(B) A petition shall be filed at or prior to the detention hearing."

(2) A new subsection (a-1) is added to read as follows:

"(a-1)(1) During the 72-hour period authorized in subsection (a)(1) of this section, the Agency may convene a family team meeting to solicit the input of family members, relatives, and others concerned with the welfare of the child to develop a safety plan approved by the Agency. At a minimum, the Agency shall invite parents, relatives, caregivers, community

Note,
§ 16-2312

representatives, service providers, and the *guardian ad litem* appointed to represent the child's best interest to attend a family team meeting.

"(2) The Agency shall summarize the discussion from a family team meeting and record the safety plan approved by the Agency in the appropriate electronic data base, and distribute a copy of the plan to all participants of the family team meeting. The safety plan shall clearly outline the roles and responsibilities of each participant and the target dates for each action set forth in the plan."

(b) A new section 16-2312a is added to read as follows:

"Sec. 16-2312a. Evaluation of family team meetings and 72-hour time period for commencement of shelter care hearing.

"(a) At intervals no later than 6 months, 18 months, and 30 months after the effective date of the Child in Need of Protection Emergency Act of 2004, passed on emergency basis on December 21, 2004 (Enrolled version of Bill 15-1170) ("Act"), the Agency shall commission an independent process and impact evaluation of the family team meetings authorized in section 16-2312(a-1) and the 72-hour period authorized in section 16-2312(a)(1). Each evaluation shall, at a minimum, assess the following processes and outcomes of the family team meetings:

"(1) Rates of participation in the meetings for different types of participants, including parents, children, and relatives;

"(2) Demographic information about children and families who participated in the meetings;

"(3) The percentage of meetings resulting in approved safety plans;

"(4) The supports and services included in approved safety plans;

"(5) The extent to which supports and services included in approved safety plans actually were provided;

"(6) The percentage of meetings that resulted in the filing of a petition in the Family Court to remove a child from the home, and the percentage of meetings that resulted in a decision not to file a petition in Family Court;

"(7) The placement outcomes for children who were the subject of the meetings, including the percentage of children living with parents, the percentage of children living with relatives, the percentage of children who have been adopted, the percentage of children living in foster care, and other applicable placements;

"(8) The percentage of children who received a permanent placement and whose cases were closed;

"(9) The percentage of children who were the subject of subsequent reports to the Agency's abuse and neglect reporting line; and

"(10) The effect of the 72-hour time frame for the commencement of a Family Court hearing on families' legal protections and due-process rights."


Sec. 3. Fiscal impact statement.

The 72-hour time frame established in this legislation for the government to petition the Family Court to remove a child from the home will facilitate the Agency's implementation of family team meetings. The purpose of these meetings is to identify resources and supports to improve family functioning and remedy any conditions of neglect or abuse by developing a safety plan for the child. Based on a wide range of research reviewed by the Committee on the Judiciary and the Committee on Human Services, there is evidence showing that the family team meetings would avoid the need for some court filings to remove a child from the home, hasten family reunification or permanent placements when a child must be removed from the


home, and reduce the rate at which children return to the child welfare system. For example, a study of family team meetings by researchers at the University of Washington found that the meetings resulted in an increase in children living with their parents, a high rate (82 percent) of permanent placements for children who had been the subject of family team meetings, and a low annual rate (6.8 percent) of subsequent referrals to the child protection system. These results could lead to cost savings for the Agency and the Office of the Attorney General.

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-725

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005

To amend, on an emergency basis, the Fiscal Year 2005 Budget Support Act of 2004 to authorize the Department of Human Services to expend \$250,000 for the Southeast Veteran's Access Housing, Inc., for operation of the men's shelter.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2005 Southeast Veteran's Access Housing, Inc., Budget Support Emergency Amendment Act of 2004".

Sec. 2. Section 5903 of the Fiscal Year 2005 Budget Support Act of 2004, signed by the Mayor on August 2, 2004 (D.C. Act 15-487; 51 DCR 8441), is amended by striking the word "renovation" and inserting the word "operation" in its place.

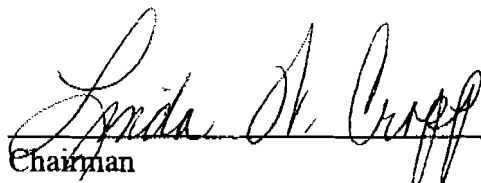
Sec. 3. Fiscal impact statement.

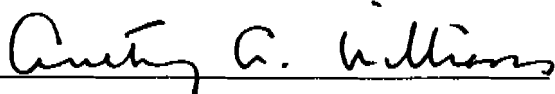
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-726

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 13, 2005

Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend, on an emergency basis, due to Congressional review, the District of Columbia Traffic Act, 1925, to establish the crime of fleeing from a law enforcement officer in a motor vehicle, and to establish penalties for the commission of the crime.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fleeing Law Enforcement Prohibition Second Congressional Review Emergency Amendment Act of 2004".

Sec. 2. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 *et seq.*), is amended by adding a new section 10b to read as follows:

"Sec. 10b. Fleeing from a law enforcement officer in a motor vehicle.

"(a) For the purposes of this section, the term:

"(1) "Law enforcement officer" means a sworn member of the Metropolitan Police Department or a sworn member of any other police force operating in the District of Columbia.

"(2) "Signal" means a communication made by hand, voice, or the use of emergency lights, sirens, or other visual or aural devices.

"(b)(1) An operator of a motor vehicle who knowingly fails or refuses to bring the motor vehicle to an immediate stop, or who flees or attempts to elude a law enforcement officer, following a law enforcement officer's signal to bring the motor vehicle to a stop, shall be fined not more than \$1,000, or imprisoned for not more than 180 days, or both.

"(2) An operator of a motor vehicle who violates paragraph (1) of this subsection and while doing so drives the motor vehicle in a manner that would constitute reckless driving under section 9(b), or causes property damage or bodily injury, shall be fined not more than \$5,000, or imprisoned for not more than 5 years, or both.

"(c) It is an affirmative defense under this section if the defendant can show, by a preponderance of the evidence, that the failure to stop immediately was based upon a reasonable belief that the defendant's personal safety is at risk. In determining whether the defendant has met this burden, the court may consider the following factors:

"(1) The time and location of the event;

"(2) Whether the law enforcement officer was in a vehicle clearly identifiable by its markings, or if unmarked, was occupied by a law enforcement officer in uniform or displaying a badge or other sign of authority;

"(3) The defendant's conduct while being followed by the law enforcement officer;

"(4) Whether the defendant stopped at the first available reasonably lighted or populated area; and

"(5) Any other factor the court considers relevant.

"(d)(1) The Mayor or his designee, pursuant to section 13, may suspend the operating permit of a person convicted under subsection (b)(1) of this section for a period of not more than 180 days and may suspend the operating permit of a person convicted under subsection (b)(2) of this section for a period of not more than 1 year.

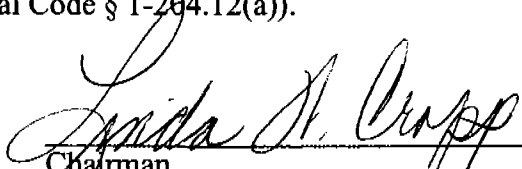
"(2) A suspension of an operator's permit under paragraph (1) of this subsection for a person who has been sentenced to a term of imprisonment for a violation of subsection (b)(1) or (2) of this section shall begin following the person's release from incarceration."

Sec. 3. Fiscal impact statement.

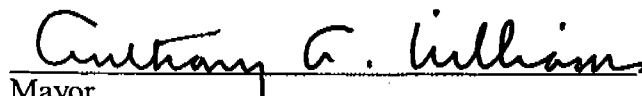
The Council adopts the fiscal impact statement in the committee report for the Fleeing Law Enforcement Prohibition Amendment Act of 2004, signed by the Mayor on October 4, 2004 (D.C. Act 15-528; 51 DCR 9600), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 13, 2005

AN ACT
D.C. ACT 15-727

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend, on an emergency basis, due to Congressional review, Chapter 23 of Title 16 of the District of Columbia Official Code to require that the court find by clear and convincing evidence that a juvenile who has pled or been found guilty of an offense is not in need of care or rehabilitation before the court can dismiss the matter at disposition, to confirm that a case may not be dismissed only on the grounds that a child is receiving care and rehabilitation in another case, and to require the involvement and participation of a parent, guardian, or other person with whom a child resides, in the rehabilitation process.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Juvenile Justice Second Congressional Review Emergency Act of 2004".

Sec. 2. Chapter 23 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-2309 is amended as follows:

(1) Paragraph (7) is amended by striking the word "or" at the end.

(2) Paragraph (8) is amended by striking the period at the end and inserting the phrase "; or" in its place.

(3) A new paragraph (9) is added to read as follows:

"(9) by a law enforcement officer when the officer has reasonable grounds to believe that the child has violated a court order."

(b) Section 16-2317(c)(2) is amended by striking the phrase "In the absence of evidence to the contrary, a finding of the commission of an act which would constitute a criminal offense if committed by an adult is sufficient to sustain a finding of need for care or rehabilitation in delinquency and need of supervision cases." and inserting the phrase "There shall be a rebuttable presumption that a finding of the commission of an act which would constitute a criminal offense if committed by an adult is sufficient to sustain a finding of need for care or rehabilitation in delinquency and need of supervision cases." in its place.

(c) Section 16-2317(d) is amended to read as follows:

"(d)(1) If the Division finds that the child is not in need of care and rehabilitation, it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered.

"(2) Determinations of whether a child is in need of care or rehabilitation may only be made at the dispositional hearing.

"(3) To overcome the presumption of a need for care or rehabilitation in

Note,
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Note,
§ 16-2317

Note,
§ 16-2317

subsection (c)(2) of this section, the Division must find by clear and convincing evidence at the dispositional hearing that the child is not in need of care or rehabilitation before it may terminate proceedings.

"(4) The fact that a child is receiving care or rehabilitation in another case shall not be the only grounds for dismissal."

(d) Section 16-2325.01 is amended as follows:

Note,
§ 16-2325.01

(1) Subsection (a) is amended as follows:

(A) Strike the word "may" and insert the word "shall" in its place.

(B) Strike the period at the end and insert the phrase ", unless the court determines that such an order is not in the best interest of the child." in its place.

(2) Subsection (b) is amended by striking the word "may" and inserting the word "shall" in its place.

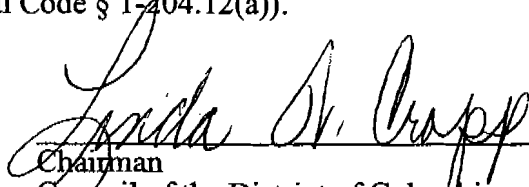
(3) Subsection (c) is amended by striking the phrase "an order of participation" and inserting the phrase "an order issued under this section" in its place.

Sec. 3. Fiscal impact statement.


The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-728IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 13, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend, on an emergency basis, the School Safety and Security Contracting Procedures Emergency Act of 2004 to delay the transfer of responsibility for the provision of school security services from January 1, 2005 to June 30, 2005, and to authorize the District of Columbia Board of Education to extend the term of the existing school security contract through June 30, 2005.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "School Security Authority Extension Emergency Amendment Act of 2004".

Sec. 2. The School Safety and Security Contracting Procedures Emergency Act of 2004, effective November 30, 2004 (D.C. Act 15-596; 51 DCR 11219), is amended as follows:

(a) Section 6 is amended to read as follows:

"Sec. 6. Authority to issue RFP for school security related contracts.

"The responsibility for and issuance of a Request for Proposals ("RFP") for any security guard or security related contract for DCPS for a contract term to begin June 30, 2005, or later shall transfer to the MPD as of August 2, 2004. The awarding, execution, and funding of a contract issued pursuant to any RFP under this section shall be the subject of the Memorandum of Agreement between DCPS and MPD."

(b) Section 8 is repealed.

Sec. 3. Section 104(d) of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.04(d)), is amended to read as follows:

Note,
§ 2-301.04

"(d)(1) Except as provided in this subsection, this act shall apply to the Board of Education.

"(2) The Board of Education shall have no authority to solicit, award, or execute contracts for the provision of security for the District of Columbia Public Schools, except that it shall have the authority to extend the security contract in effect on the effective date of the School Security Authority Extension Emergency Amendment Act of 2004, passed on emergency basis on December 21, 2004 (Enrolled version of Bill 15-1175), through June 30, 2005.

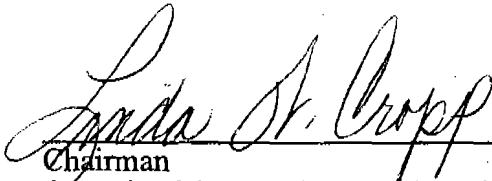
"(3) Regarding contracts not prohibited by paragraph (2) of this subsection, the Board of Education shall have the authority to solicit, award, and execute contracts independently of the Office of Contracting and Procurement and the Chief Procurement Officer."

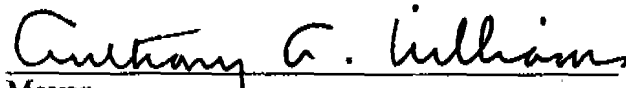
Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report of the School Safety and Security Contracting Procedures Act of 2004, passed on 2nd reading on December 21, 2004 (Enrolled version of Bill 15-725), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
January 13, 2005

AN ACT
D.C. ACT 15-729

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend, on an emergency basis, the Fiscal Year 2005 Budget Support Act of 2004 to restore a telecommunications taxes reduction provision that was inadvertently repealed.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Telecommunications Taxes Reduction Emergency Act of 2004".

Sec. 2. Section 1233(a) of the Fiscal Year 2005 Budget Support Act of 2004, effective December 7, 2004 (D.C. Law 15-205; 51 DCR 8441), is amended to read as follows:

"(a)(1) Section 47-368.03(b) and (c) is repealed.

"(2) This subsection shall apply as of August 2, 2004."

Note,
§ 47-368.03

Sec. 3. Fiscal impact statement.

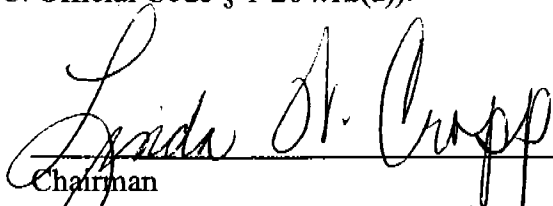
The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

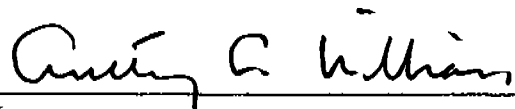
Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia

MAR 4 - 2005

ENROLLED ORIGINAL

in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
January 19, 2005

AN ACT

D.C. ACT 15-730

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005

To establish, on an emergency basis, due to congressional review, the Low-Income Housing Tax Credit Fund which shall be segregated from the General Fund of the District and used solely to defray costs incurred by the Department of Housing and Community Development in administering the Low-Income Housing Tax Credit Program which provides low-income housing tax credits to developers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Low-Income Housing Tax Credit Fund Congressional Review Emergency Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Administrative costs" means costs of the Department to administer, manage, and monitor the distribution of Low-Income Housing Tax Credit Program, including personnel costs whether incurred before or after the effective date of this act.

(2) "Department" means the Department of Housing and Community Development.

(3) "Developer" means a person or entity that proposes to cause the construction of affordable housing using the tax credits.

(4) "Fund" means the Low-Income Housing Tax Credit Fund.
Proprietary Fund.

(5) "Low-Income Tax Credit Program" means the program authorized by section 42 of the Internal Revenue Code to encourage new construction and rehabilitation of rental housing for low-income households and to increase the amount of affordable rental housing for households with income at or below specified income levels.

(6) "Monitoring" means the regular evaluation of units financed through the Low-Income Housing Tax Credit Program administered by the Department.

(7) "User fees" means any fees charged to a developer in connection with the Low-Income Housing Tax Credit Program including application, reservation, allocation, and monitoring fees.

Sec. 3. Low-Income Housing Tax Credit Fund.

(a) There is hereby established a segregated nonlapsing fund to be known as the Low-Income Housing Tax Credit Fund ("Fund"). All user fees collected under this act, and all interest earned on those fees, shall be deposited into the Fund without regard to fiscal year limitation pursuant to an act of Congress.

(b) All revenues deposited into the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available to the Department for the uses and purposes set forth in this act, subject to authorization by Congress in an appropriations act.

(c) All revenue deposited into the Fund shall be expended by the Department for the administrative costs and monitoring of the Low-Income Housing Tax Program. The Fund shall not be used for any other purpose.

(d) The Mayor shall submit to the Council, as a part of the annual budget, a requested appropriation for expenditures from the Fund. Any revenue received but not expended in a given fiscal year shall be retained by the Fund.

(e) All income and expenses of the Fund shall be audited annually by the Mayor. The audit report shall be provided to the Council. The expenses for each audit shall be paid by the Fund.

Sec. 4. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

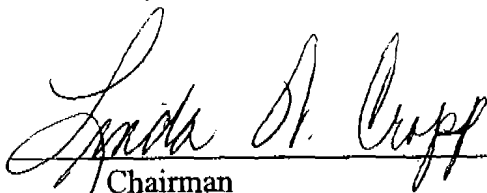
Sec. 5. Applicability.

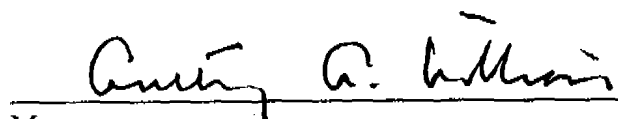
This act shall apply after October 31, 2004.

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
January 19, 2005

MAR 4 - 2005

ENROLLED ORIGINAL

DISTRICT OF COLUMBIA REGISTER

AN ACT
D.C. ACT 15-731

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005

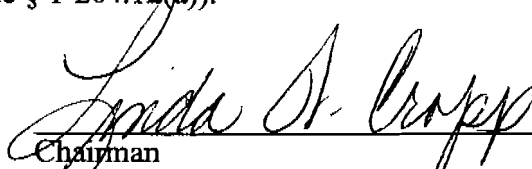
To authorize, on an emergency basis, the award of Contract No. DCFJ-2004-R-0031 for the purchase of electricity for the use of the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Contract No. DCFJ-2004-R-0031 (Delivery of Electrical Power and Ancillary Services) Approval Emergency Amendment Act of 2004".

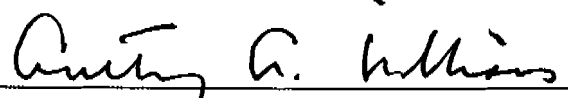
Sec. 2. Notwithstanding the requirements of section 105a of the District of Columbia Procurement Practices Act of 1985, effective March 8, 1991 (D.C. Law 8-257; D.C. Official Code § 2-301.05a), Contract No. DCFJ-2004-R-0031 for the delivery of electricity is hereby approved.

Sec. 3. This act enables the District to save approximately \$2 million through the approval of a contract to purchase electricity at a price below that of standard offer service. The purchase of this electricity is already contemplated in the budget and financial plan.

Sec. 4. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 19, 2005

1961

AN ACT

D.C. ACT 15-732

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005

To amend, on an emergency basis, section 47-3505 of the District of Columbia Official Code to provide certain nonprofit organizations with exemption from certain real property taxation.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Nonprofit Housing Organizations Tax Exemption Emergency Act of 2004".

Sec. 2. Section 47-3505 of the District of Columbia Official Code is amended by adding a new subsection (f) to read as follows: Note,
§ 47-3505

"(f)(1) Beginning October 1, 2002, any nonprofit organization that has (i) acquired property to develop more than 10 units of housing for affordable or lower income home ownership in the District of Columbia, (ii) subdivided the acquired property into more than 10 units, and (iii) been denied exemption from District of Columbia real property taxes pursuant to § 47-1002 shall have 2 years from the date of the subdivision of the property to hold the property without liability for the recordation, transfer, or real property taxes associated with the acquisition and development of the property.

"(2) Beginning October 1, 2002, no recordation, transfer, or real property taxes associated with the acquisition of properties pursuant to paragraph (1) of this subsection shall be assessed against the nonprofit organization if it is not liable for taxes pursuant to paragraph (1) of this subsection."

Sec. 3. Inclusion in budget and financial plan.

This act shall take effect subject to inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 4. Fiscal impact statement.

The fiscal impact of this act is minimal in fiscal years 2003, 2004, and 2005. The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

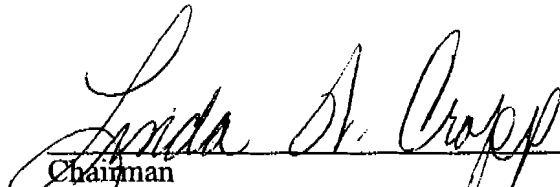
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

MAR 4 - 2005

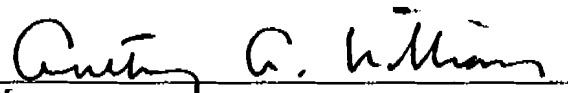
ENROLLED ORIGINAL

DISTRICT OF COLUMBIA REGISTER

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 19, 2005

DISTRICT OF COLUMBIA REGISTER

AN ACT
D.C. ACT 15-733

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005

To authorize, on an emergency basis, the expenditure, through a grant to a private non-profit entity selected by the Mayor, of up to \$400,000 of the local funds appropriated to the District of Columbia in the District of Columbia Appropriations Act, 2005, for the Mayor's Anti-Violence Initiative.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Anti-Violence Initiative Grant Authority Emergency Act of 2004".

Sec. 2. (a) From the \$800,000 in local funds earmarked for the Mayor's Anti-Violence Initiative under the District of Columbia Appropriations Act, 2005, approved October 18, 2004 (Pub. L. 108-335; 118 Stat. 1322), the Mayor is authorized to grant up to \$400,000 to a private nonprofit entity as selected by the Mayor in order to carry out the Mayor's Anti-Violence Initiative.

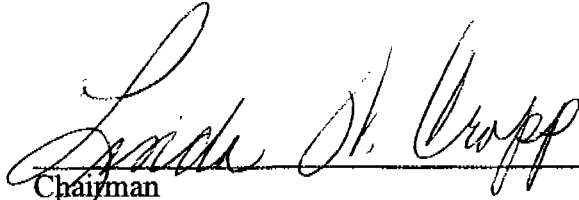
(b) For the purpose of this section, the "Mayor's Anti-Violence Initiative" means the initiative to stem the tide of vehicle thefts and unauthorized use of vehicles by youth ages 12 through 17.


Sec. 3. The Mayor may promulgate any rules necessary to implement the provisions of this act.

Sec. 4. The Council adopts the attached fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602 (c)(3) of the Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 5. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in

section 412 (a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
January 19, 2005

AN ACT

D.C. ACT 15-734

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend, on an emergency basis, Chapter 46 of Title 47 of the District of Columbia Official Code to provide for tax and fee waivers and exemptions for the Carver 2000 Low-Income and Senior Housing Project located in various lots within squares 5140, 5190, and 5348.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Carver 2000 Low-Income and Senior Housing Project Emergency Act of 2004".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the section designation "47-4607. Carver 2000 Low-Income and Senior Housing Project -tax exemptions." at the end. New
§ 47-4607

(b) A new section 47-4607 is added to read as follows:

"47-4607. Carver 2000 Low-Income and Senior Housing Project -tax exemptions .

"(a) For the purposes of this section, the term "Carver 2000 Low Income and Senior Housing Project" means the financing, refinancing, or reimbursing of costs incurred for the acquisition, development, construction, installation, and equipping of the mixed-use 176 units of apartment and town homes for senior citizens and low-income residents of the District of Columbia, located in the following lots and squares: 5140-0819; 5140-0820; 5140-0821; 5140-0822; 5140-0823; 5140-0824; 5140-0825; 5140-0826; 5190-0806; 5190-0807; 5190-0808; 5348-0001; 5348-0002; 5348-0003; 5348-0004; 5348-0005; 5348-0006; 5348-0007; 5348-0008, and consisting of:

"(1) Land and improvements that are to be renovated into approximately 176 units of apartments and town homes for senior citizens and low-income families; and

"(2) All common areas and ancillary improvements identified in any pre-existing financing agreements supporting the development of low-income and senior housing in the lots and squares identified in this subsection.

"(b) The Carver 2000 Low-Income and Senior Housing Project project shall be exempt

DISTRICT OF COLUMBIA REGISTER

from the tax imposed by §§ 42-1102 and 47-903.

“(c) The sales and rental of tangible personal property to be incorporated in or consumed in the Carver 2000 Low-Income and Senior Housing Project, whether or not the sale, rental, or nature of the material or tangible personal property is incorporated as a permanent part of the Carver 2000 Low-Income and Senior Housing Project or the Carver 2000 Low-Income and Senior Housing Project property, shall be exempt from the tax imposed by § 47-2002.

“(d)(1) The Carver 2000 Low-Income and Senior Housing Project property shall be exempt from the tax imposed by Chapter 8.

“(2) The real property tax exemption granted by paragraph (1) of this subsection shall only apply for the 8 consecutive real property tax years beginning with Tax Year 2003.

“(e) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Carver 2000 Low-Income and Senior Housing Project or the Carver 2000 Low-Income and Senior Housing Project property and shall not exceed, in the aggregate, \$300,000.”.

Sec. 3. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

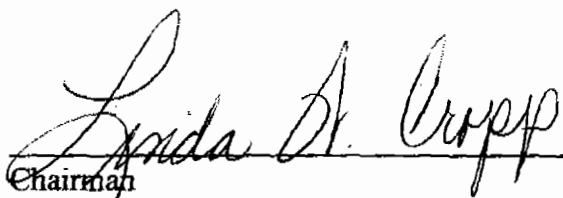
Sec. 4. Fiscal impact statement.

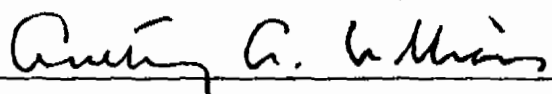
The fiscal impact of this act is minimal since the over eight years of taxes, which in total amount on average to less than \$40,000 per year are divided among at least 176 units of housing for existing low-income and senior citizen residents of the District. The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3))

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section

412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
D.C. Official Code § 1-204.12(a)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-735IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend, on a temporary basis, the Water Pollution Control Act of 1984 to provide that revenues from fishing and hunting licensing schemes shall not be used for purposes other than the administration of the District's Fisheries and Wildlife Division in its role of protecting and managing aquatic life.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Water Pollution Control Temporary Amendment Act of 2004".

Sec. 2. Section 4(b)(3) of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code § 8-103.03(b)(3)), is amended to read as follows:

Note,
§ 8-103.03

"(3) Revenues from licensing regulatory schemes under this section shall not be diverted for purposes other than the administration and management of the District's fisheries and wildlife resources. License fees paid by anglers and other users of these resources shall not be used for purposes other than the administration of the District's Fisheries and Wildlife Division."

Sec. 3. Fiscal impact statement.

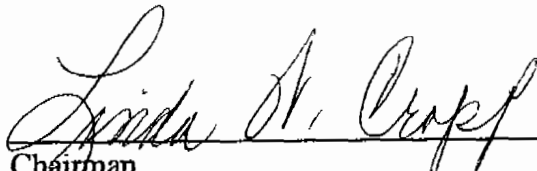
The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

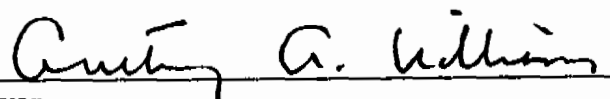
Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
January 19, 2005

AN ACT

D.C. ACT 15-736

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend, on a temporary basis, Title 47 of the District of Columbia Official Code to de-couple District of Columbia law from the depreciation and expense election provisions added to the Internal Revenue Code of 1986 by the Jobs and Growth Tax Relief Reconciliation Act of 2003.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Depreciation Allowance for Small Business De-Coupling from the Internal Revenue Code Second Temporary Act of 2004".

Sec. 2. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1803.03 is amended as follows:

Note,
§ 47-1803.03

(1) Subsection (a)(7) is amended as follows:

(A) Strike the phrase "September 11, 2004" and insert the phrase "September 30, 2005" in its place.

(B) Insert the following sentences at the end of the paragraph: "No deduction shall be allowed for the increased expensing for small businesses and subject to the special rules pursuant to section 179 of the Internal Revenue Code of 1986. No expensing of computer software shall be allowed. No increase shall be allowed in Qualifying Investment at which phaseout begins."

(2) Subsection (b)(6) is amended as follows:

(A) Strike the phrase "September 11, 2004" and insert the phrase "September 30, 2005" in its place.

(B) Insert the following sentences at the end of the paragraph: "No deduction shall be allowed for the increased expensing for small businesses and subject to the special rules pursuant to section 179 of the Internal Revenue Code of 1986. No expensing of computer software shall be allowed. No increase shall be allowed in Qualifying Investment at which phaseout begins."

(b) Section 47-1811.04 is amended to read as follows:

"The basis used in determining the amount allowable as a deduction from gross income

Note,
§ 47-1811.04

under the provisions of § 47-1803.03(a)(7) shall be the same basis as that provided for determining the gain from the sale or other disposition of property for federal income tax purposes under the Internal Revenue Code of 1986; provided, that no adjustment shall be made for the amount of the special depreciation allowance for property acquired after September 10, 2001 and before September 30, 2005 and subject to special rules pursuant to section 168(k) of the Internal Revenue Code of 1986. No deduction shall be allowed for the increased expensing for small businesses and subject to the special rules pursuant to section 179 of the Internal Revenue Code of 1986. No expensing of computer software shall be allowed. No increase shall be allowed in Qualifying investments at which phaseout begins.”.

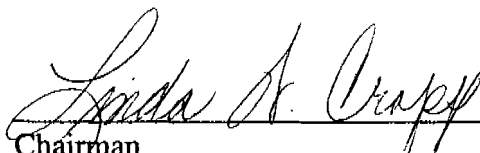
Sec. 3. Fiscal impact statement.

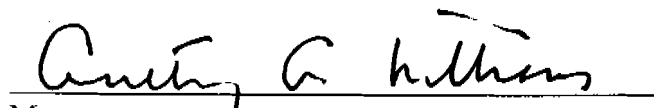
The Council adopts the attached as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED

January 19, 2005

DISTRICT OF COLUMBIA REGISTER

AN ACT

D.C. ACT 15-737

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend, on a temporary basis, the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to allow District of Columbia government employees who serve in the reserve units of the United States Armed Forces and who have been called or will be called to active duty as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom, to receive a pay differential.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Second Temporary Amendment Act of 2004".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 1103(a) (D.C. Official Code § 1-611.03(a)) is amended by adding a new paragraph (7) to read as follows:

*Note,
§ 1-611.03*

“(7)(A) Any full-time permanent, term, or TAPER District government employee who serves in a reserve component of the United States Armed Forces and who has been or will be called to active duty as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom, shall receive, upon application and approval, an amount that equals the difference in compensation between the employee's District government basic pay and the employee's basic military pay. This amount shall not be considered as basic pay for any purpose. This amount shall be paid for any period following the formal inception of Operation Enduring Freedom in 2001, any period following the beginning of the preparation for Operation Iraqi Freedom in 2002 and 2003, or for any period following the formal inception of Operation Iraqi Freedom in 2003, during which the employee is carried in a non-pay status, from the time the employee is called to active duty until the employee is released from active duty occasioned by any of these military conflicts.

"(B) The Mayor shall issue rules within 30 days of July 22, 2003 to implement the provisions of this paragraph."

(b) Section 1111(d) (D.C. Official Code § 1-611.11(d)) is amended by striking the phrase "and (6)" and inserting the phrase "and (7)" in its place.

Note,
§ 1-611.11

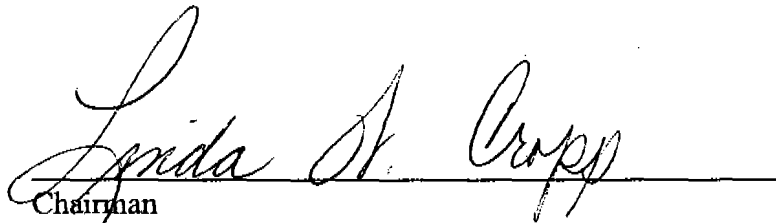
Sec. 3. Fiscal impact statement.

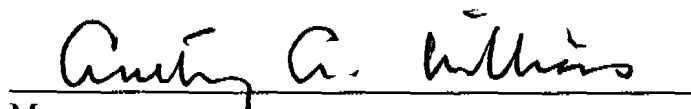
The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-738IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend Chapter 8 of Title 47 of the District of Columbia Official Code to promote the development of affordable housing and retail amenities in an under-served neighborhood by establishing a more flexible time line for the development of the Wax Museum project and to authorize the transfer of certain tax abatements within the Mount Vernon Triangle area in order to encourage further residential, retail, and commercial development.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Tax Abatement Adjustment for Housing Priority Area Act of 2004".

Sec. 2. Chapter 8 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-857.04 is amended as follows:

Amend
§ 47-857.04

(1) Designate the existing text as subsection (a).

(2) Newly designated subsection (a) is amended by striking the phrase "subject to" and inserting the phrase "With respect to any project for which the owner or its designee satisfies § 47-857.02(a)(1) and (2) on or before December 31, 2004, and subject to" in its place.

(3) A new subsection (b) is added to read as follows:

"(b) If a project eligible for the real property tax abatement under this section breaks ground on or after January 1, 2005 (as certified by the project architect and the Mayor), the tax abatement may be applied, assigned, conveyed, or otherwise transferred ("transferred") by the owner of the real property or project (or by the owner's designee) and the time period at which the tax abatement commences may be delayed until the transfer and shall continue for 10 years after the date of transfer; provided, that:

"(1) The tax abatement shall be computed as \$1.00 per residential FAR square foot of the eligible real property;

"(2) The tax abatement shall be transferred by the owner:

"(A) To reduce real property taxes imposed upon any residential project in eligible area #2; or

"(B) To reduce real property taxes imposed upon any commercial

project in eligible area #2; and

“(3) The tax abatement shall be transferred within:

“(A) Five years after receipt by the eligible project of a final certificate of occupancy is issued for the entirety of the project;

“(B) Within one year after the final certificate of occupancy is issued for the project to which the abatement is transferred.”.

(b) Section 47-857.06 is amended by adding a new subsection (d) to read as follows:

“(d)(1) For the purposes of this subsection, the term:

“(A) “K Street Building” means the portion of the Wax Museum project comprised of the building to be constructed on the site bounded on the south side by K Street, N.W., on the west side by 5th Street, N.W., on the north side by L Street, N.W., and on the east side by the alley running parallel to 5th Street, N.W.

“(B) “L Street Building” means the portion of the Wax Museum project comprised of the building to be constructed on the portion of the property to be disposed of pursuant to the RFP Resolution that is not included within the K Street Building.

“(C) “RFP Resolution” means the Revised Request for Proposals for the Redevelopment of Parcel One, the Former Wax Museum Site Approval Resolution of 2003, introduced on June 13, 2003 (PR15-249).

“(D) “Wax Museum developer” means the person (or any successor in interest) with which the District enters into an agreement for the disposition of the property on which the Wax Museum project will be constructed.

“(E) “Wax Museum project” means the project constructed pursuant to the request for proposals in the RFP Resolution.

“(2) Notwithstanding the provisions of § 47-857.02, there shall be allowed an abatement of \$710,000 per year of the real property tax imposed by § 47-811 on the Wax Museum project (to be allocated between the K Street Building and L Street Building as set forth in paragraph (3) of this subsection), and the Mayor shall issue to the Wax Museum developer certification letters stating that the property and buildings are eligible for the abatement and that the Mayor has reserved the abatement for the property and buildings in the allocated amounts; provided, that:

“(A) With respect to the K Street Building:

“(i) The first level of concrete for the K Street Building shall be laid by December 31, 2006, or such earlier date as may be set forth in an agreement between the Wax Museum developer and the National Capital Revitalization Corporation or RLA Revitalization Corporation;

“(ii) A certificate of occupancy for the K Street Building shall have been issued within 36 months after the first level of concrete has been laid for the K Street Building, or such earlier date as may be set forth in an agreement between the Wax Museum developer and the National Capital Revitalization Corporation or RLA Revitalization Corporation; and

Amend
§ 47-857.06

“(iii) The K Street Building satisfies § 47-857.06(a)(2) through (4); and

“(B) With respect to the L Street Building:

“(i) The first level of concrete for the L Street Building shall be laid within 18 months after the receipt by the Wax Museum developer of the Mayor’s certification letter pertaining to the tax abatement for K Street Building, or such earlier date as may be set forth in an agreement between the Wax Museum developer and the National Capital Revitalization Corporation or RLA Revitalization Corporation;

“(ii) A certificate of occupancy for the L Street Building shall have been issued within 30 months after the first level of concrete has been laid for the L Street Building, or such earlier date as may be set forth in an agreement between the Wax Museum developer and the National Capital Revitalization Corporation or RLA Revitalization Corporation; and

“(iii) The L Street Building satisfies § 47-857.06(a)(2) through (4).

“(3) For each deadline set forth in paragraph (2) of this subsection, one 6-month extension may be granted at the discretion of the Mayor.

“(4) The tax abatement allowed by this subsection shall be allocated between the K Street Building and the L Street Building based upon the square footage dedicated to residential units in each building as certified by the Wax Museum project architect.

“(5) The tax abatement allowed by this subsection shall be included in and subject to the \$2 million abatement limit set forth in § 47-857.09(b).

“(6)(A) The tax abatement allowed by this subsection for the K Street Building shall expire at the end of the 10th tax year after the tax year in which a certificate of occupancy is issued for the residential portion of the K Street Building.

“(B) The tax abatement allowed by this subsection for the L Street Building shall expire at the end of the 10th tax year after the tax year in which a certificate of occupancy is issued for the residential portion of the L Street Building.”.

Sec. 3. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 4. Fiscal impact statement

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

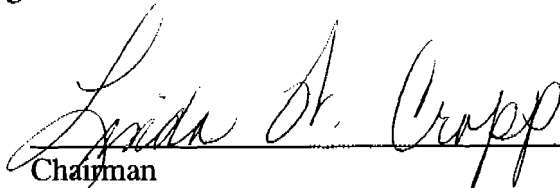
MAR 4 - 2005


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DISTRICT OF COLUMBIA REGISTER

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
January 19, 2005

MAR 4 - 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-739

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To amend section 47-1803.03 of the District of Columbia Official Code to establish a deduction for premiums paid for the purchase of long-term care insurance policies.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Long-Term Care Insurance Tax Deduction Act of 2004".

Sec. 2. Section 47-1803.03 of the District of Columbia Official Code is amended to add a new subsection (b-1) to read as follows:

Amend
§ 47-1803.03

"(b-1) An individual may deduct from gross income the amount the individual pays annually in premiums for long term-health care insurance, as defined in § 31-3601(5)); provided, that the deduction shall not exceed \$500 per year, per individual, whether the individual files individually or jointly."

Sec. 3. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

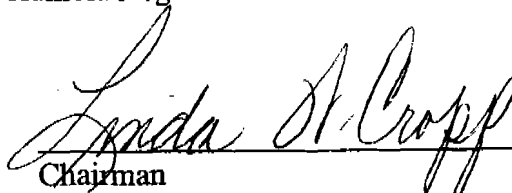
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

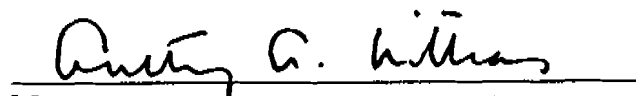
DISTRICT OF COLUMBIA REGISTER

MAR 4 - 2005

ENROLLED ORIGINAL

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-740

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To establish a Health Care Ombudsman Program to counsel and provide assistance to uninsured District of Columbia residents and individuals insured by health benefits plans in the District of Columbia regarding matters pertaining to their health care coverage.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health Care Ombudsman Program Establishment Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Accessible" means providing:

(A) The program's written materials in Spanish and English, and in other languages when required by Title VI of the Civil Rights Act of 1964, approved July 2, 1964 (78 Stat. 252; 42 U.S.C. § 2000d *et seq.*) ("Title VI"), or District law;

(B) Interpreters to communicate with consumers in Spanish, and in other languages when required by Title VI or District law; and

(C) TTY services and other accommodations for individuals with disabilities in accordance with the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 327; 42 U.S.C. § 12101 *et seq.*).

(2) "Consumer" means:

(A) An uninsured resident of the District, including residents enrolled in the HealthCare Alliance; or

(B) An individual covered by a health benefits plan in the District.

(3) "Department" means the Department of Health.

(4) "District" means the District of Columbia.

(5) "Health benefits plan" means a group or individual insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by an insurer, or subcontracting facility of an insurer, or an employer for the purpose of providing, paying for, or reimbursing expenses for health-related services. The term "health benefits plan" shall include health coverage provided through a

government program, including Medicaid. The term "health benefits plan" shall not include disability income or accident-only insurance.

(6) "Health Care Ombudsman" or "Ombudsman" means the individual responsible for running the Health Care Ombudsman Program.

(7) "Health Care Ombudsman Program" or "Ombudsman Program" means the program established by the District to counsel and assist uninsured District residents and individuals insured by health benefits plans in the District regarding matters pertaining to their health care coverage.

(8) "Health care services" means items or services provided under the supervision of a physician or other person trained or licensed to render health care necessary for the prevention, care, diagnosis, or treatment of human disease, pain, injury, deformity, or other physical or mental condition, including the following: pre-admission, outpatient, inpatient, and post-discharge care; home care; physician's care; nursing care; medical care provided by interns or residents in training; other paramedical care; ambulance service and care; bed and board; drugs; supplies; appliances; equipment; laboratory services; any form of diagnostic imaging or therapeutic radiological services; and services mandated under the Drug Abuse, Alcohol Abuse, and Mental Illness Coverage Act of 1986, effective February 28, 1987 (D.C. Law 6-195; D.C. Official Code § 31-3101 *et seq.*).

Sec. 3. Establishment of Health Care Ombudsman Program.

(a) The Department shall establish the Health Care Ombudsman Program by contracting with a qualified private, community-based, nonprofit corporation, organization, or consortia of organizations, with offices located in the District, to operate the program. If the Department is unable to contract with a qualified corporation, organization, or consortia of organizations that meets the requirements of subsection (c) of this section, the Department shall operate the Ombudsman Program.

(b) The Ombudsman Program shall be administered by the Health Care Ombudsman, who shall be appointed by the Director of the Department. The Health Care Ombudsman shall be an individual with management experience and substantive experience in the fields of health care, health benefits plans, or health care advocacy. Unless the Department is operating the program, the Health Care Ombudsman shall be an employee of the nonprofit corporation, organization, or consortia of organizations selected by the Department to operate the program.

(c) The Department shall establish selection criteria for the qualified, private, nonprofit corporation, organization, or consortia of organizations that will perform the functions of the Ombudsman Program. The criteria shall include:

- (1) A public interest mission;
- (2) Qualified staff and organizational expertise in health care and health benefits plans, public education and community outreach, and problem resolution;
- (3) No direct involvement in the licensing, certification, or accreditation of a

health care facility, a health benefits plan, or a provider of a health benefits plan, or with a provider of a health care service;

(4) No direct ownership or investment interest in a health care facility, health benefits plan, or any health service;

(5) No participation in the management of a health care service, health care facility, or health benefits plan; and

(6) No agreement or arrangement with an owner or operator of a health care service, health care facility, or health benefits plan that could indirectly or directly result in remuneration, in cash or in kind, to the organization.

(c) The Ombudsman Program may subcontract with advocacy organizations that are affiliated with health providers that exclusively represent the interests of consumers and do not represent the health care entity in any disputes.

(d) The Department shall accord preference in the selection process to corporations or organizations that:

(1) Have a board of directors with significant representation from District consumers;

(2) Have experience in serving District residents or have staff with experience in serving District residents; or

(3) Have expertise in health benefits plans.

(e) The Ombudsman Program may use volunteers with appropriate training and supervision to assist with counseling, outreach, and other tasks.

Sec. 4. Program evaluation.

(a) The Department shall develop criteria to be used in evaluating the performance of the Ombudsman Program.

(b)(1) The Department shall obtain, biannually, an independent evaluation of the Ombudsman Program through an academic group or other independent, private-sector organization, the Office of the Inspector General, or the Office of the District of Columbia Auditor. The evaluation shall take into account:

(A) The number of consumer problems handled;

(B) The success in resolving the consumer problems handled;

(C) Outreach and community education activities;

(D) Satisfaction of consumers served by the program; and

(E) The extent to which information was provided to the public and policy makers about problems faced by the consumers served.

(2) The Department shall decide whether to renew contracts based on the evaluation.

(3) The evaluation shall be available to the public upon request.

(4) The first evaluation shall take place no later than 2 years after the effective

date of this act.

Sec. 5. Duties.

The Ombudsman Program shall provide the following accessible services:

- (1) Assist consumers in resolving problems concerning health care bills, health coverage, and access to health care by referring consumers to appropriate regulatory agencies when their problems are within an agency's jurisdiction, guiding consumers through existing complaint processes, and assisting consumers in informally resolving problems through discussions with their health benefits plans, the HealthCare Alliance, or other providers;
- (2) Assist consumers in understanding their rights and responsibilities as health benefits plan members, HealthCare Alliance members, or members of other provider plans, including appeal processes and how to use them, and how to access appropriate medical information;
- (3) Educate consumers about health benefits plans, managed care health plans, and their health benefits plan options, or other health care options available for uninsured consumers;
- (4) Comment on behalf of consumers on related health care policy legislation and regulations in the District;
- (5) Help uninsured District residents access Medicaid or other health care options;
- (6) Identify, investigate, and help resolve complaints on behalf of consumers and assist consumers with the filing, pursuit, and resolution of formal and informal complaints and appeals through existing processes, including internal reviews conducted by health benefits plans, grievance and appeals processes for the HealthCare Alliance, fair hearings available to Medicaid consumers, external reviews before independent review organizations, and any other administrative appeals that may be available under District or federal law;
- (7) Refer consumers, when appropriate, to other existing organizations for assistance and work jointly with other consumer organizations, as appropriate;
- (8) Work with health care providers to develop working relationships that enhance coordination and referrals;
- (9) Make appropriate referrals to the Department of Insurance, Securities, and Banking, the Office of Fair Hearings, the Office of Administrative Hearings, the Grievance and Appeals Office of the Department of Health, Health Care Fraud Units, the Long-Term Care Ombudsman, the Health Insurance Counseling and Assistance Program serving District Medicare beneficiaries, and the Center for Health Dispute Resolution; and
- (10) Provide information to the public, government agencies, the Council, and others regarding problems and concerns of consumers and make recommendations for resolving those problems and concerns.

Sec. 6. Public outreach.

The Ombudsman Program shall implement innovative strategies and tools to maximize its outreach to consumers, including provision of the following accessible information sources and services:

- (1) A toll-free 1-800 telephone number that operates in the District metropolitan area;
- (2) A website on the Internet;
- (3) In-person counseling;
- (4) Establishing relationships with organizations in each ward of the city to provide outreach and receive referrals;
- (5) Active liaison, partnership, and information sharing with community, consumer, health, disability, religious, ethnic-based organizations, and other organizations; and
- (6) A one-page, easy-to-read flyer describing the Ombudsman Program's services that shall be available to the public.

Sec. 7. Data collection and reporting.

The Health Care Ombudsman shall submit annually to the Council, the Mayor, the Department of Health, and the Department of Insurance, Securities, and Banking a report on the activities, performance, and fiscal accounts of the Ombudsman Program, issues of concern to consumers, and the Ombudsman's recommendations to improve health access. The report shall be available to the public upon request.

Sec. 8. Access to records; confidentiality.

(a) The Health Care Ombudsman may review the records of a health benefits plan, the HealthCare Alliance, or other provider, pertaining to a consumer or the consumer's medical records if the consumer or the consumer's legal representative has provided written consent. The confidentiality of the records shall be maintained by the Ombudsman Program in accordance with all federal and state confidentiality and disclosure laws.

(b) No information or records maintained by the program shall be disclosed to the public unless the consumer or the consumer's legal representative has consented in writing to the release of the information or records.

(c) Each District agency shall provide cooperation, assistance, and data to the Health Care Ombudsman, as requested and upon reasonable notice, necessary to enable the Ombudsman Program to investigate a consumer's complaint under applicable District or federal law.

(d) The Department shall enter into a "business associate" agreement with the Ombudsman Program that gives the program access to information about the Medicaid eligibility status of consumers whom it serves and requires the program to safeguard that information pursuant to the Health Insurance Portability and Accountability Act Privacy

Regulation (45 C.F.R. Parts 160 and 164).

Sec. 9. Immunity from liability.

No employee, subcontractor, designee, or representative of the Ombudsman Program shall be held liable for the good faith performance of responsibilities under this act, except that no immunity shall extend to criminal acts, or acts that violate District or federal law.

Sec. 10. Non-retaliation.

A health benefits plan or the HealthCare Alliance shall not take retaliatory action of any sort against a member who seeks assistance from the Ombudsman Program or against a provider who furnishes information to the Ombudsman Program pursuant to a consumer's request.

Sec. 11. Requirements for health benefits plans and HealthCare Alliance.

(a) Health benefits plans and the HealthCare Alliance shall:

- (1) Include in their marketing and membership materials information regarding the availability of the Ombudsman Program;
- (2) Send annually to their members notification of the availability of the Ombudsman Program; and
- (3) Provide members the telephone number of the Ombudsman Program upon request.

(b) A health benefits plan may use the one-page, easy-to-read flyer developed by the Ombudsman Program to describe its services to meet the notice requirements under subsection (a)(1) and (2) of this section.

Sec. 12. Advisory Council.

(a) The Ombudsman shall establish an Advisory Council to consist of members representing:

- (1) Consumers;
- (2) Consumer advocacy organizations;
- (3) Health benefits plans;
- (4) Health care facilities;
- (5) Physicians;
- (6) The Health Insurance Counseling and Assistance Program or any successor charged with counseling Medicare beneficiaries pursuant to section 4360 of the Omnibus Reconciliation Act of 1990, approved November 5, 1990 (104 Stat. 1388-138; 42 U.S.C. § 1395b-4);
- (7) The Department of Health, including its Office of Maternal and Child Health and its Grievance and Appeals Office; and
- (8) The Department of Insurance, Securities, and Banking.

- (b) The Advisory Council shall perform, at minimum, the following functions:
- (1) Advise the Ombudsman on program design and operational issues;
 - (2) Recommend the criteria to be used in evaluating the performance of the Ombudsman Program;
 - (3) Recommend changes in the Ombudsman Program; and
 - (4) Review data on cases handled by the Ombudsman Program and make recommendations based on that data.

Sec. 13. Funding for the Ombudsman Program.

- (a) Funding sources for the Ombudsman Program shall include:

- (1) District local appropriations; and
- (2) Medicaid federal matching funds.

(b) Nothing in this act shall prohibit a corporation, organization, or consortia of organizations selected to operate the Health Care Ombudsman Program from raising private money through foundation resources to supplement government funds for the program.

Sec. 14. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

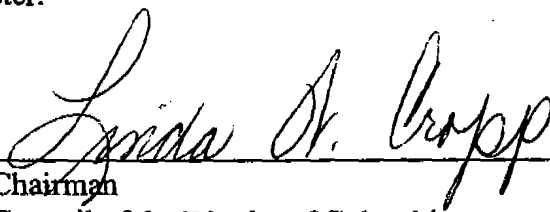
Sec. 15. Fiscal impact statement.

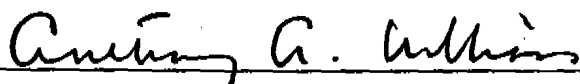
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 16. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-741

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005

*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.

West Group
Publisher

To establish the Rehabilitation Services Program to assist individuals with disabilities in achieving gainful employment, and to authorize the Mayor to establish an economic needs test to be used in determining the ability of applicants for and recipients of vocational rehabilitation services to contribute to payment of the costs of the vocational rehabilitation services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Rehabilitation Services Program Establishment Act of 2004".

Sec. 2. Establishment of the Rehabilitation Services Program.

(a) There is established a Rehabilitation Services Program that shall provide comprehensive, coordinated, efficient, and accountable federally subsidized services to individuals with disabilities, including individuals with significant disabilities, to assist those individuals in achieving gainful employment in accordance with the requirements of the Rehabilitation Act of 1973, approved August 7, 1998 (112 Stat. 1116; 29 U.S.C. § 720 *et seq.*).

(b) The Mayor shall establish an economic needs test to be used in determining the ability of applicants for and recipients of vocational rehabilitation services to contribute to the payment of the costs of the vocational rehabilitation services.

Sec. 3. Rules.

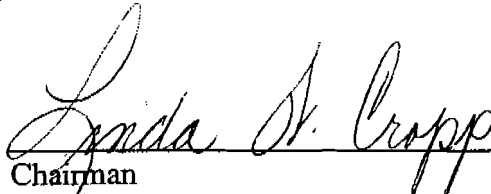
The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

Sec. 4. Fiscal impact statement.

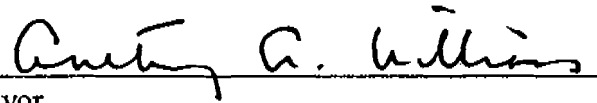
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-742

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 21, 2005Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998 and the District of Columbia School Reform Act of 1995 to provide a definition for resident student, to clarify the dates of the pupil counts to which appropriations under the Uniform Per Student Funding Formula apply for District of Columbia public schools versus that for public charter schools, to define requirements and responsibility for audits of enrollment at District of Columbia public schools and public charter schools, to provide for quarterly payments to the public charter schools, to define their schedule and basis in enrollment, to clarify the effect the annual enrollment audit is to have upon the schedule and amount of payments, to make conforming amendments regarding quarterly enrollment reporting Funding Formula, to require that the Mayor be responsible for collecting enrollment reports until the State Education Office assumes the role, to make conforming amendments to the fund transfer provisions for public charter schools; and to amend the District of Columbia Finance Reform and Conflict of Interest Act to exempt members of the Board of Education from the honoraria limitations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Public School Enrollment Integrity Clarification and Board of Education Honoraria Amendment Act of 2004".

Title I. Public School Enrollment Integrity

Sec. 101. The Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (D.C. Law 12-207; D.C. Official Code § 38-2901 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 38-2901) is amended by adding a new paragraph (10A) to read as follows:

Amend
§ 38-2901

"(10A) "Resident student" means a minor enrolled in a District of Columbia public school or public charter school who has a parent, guardian, or custodian residing in the District of Columbia or an adult enrolled in a District of Columbia public school or a public

charter school who resides in the District of Columbia as determined pursuant to the District of Columbia Nonresident Tuition Act of 1960, approved September 8, 1960 (74 Stat. 853; D.C. Official Code § 38-302 *et seq.*).

(b) Section 106 (D.C. Official Code § 38-2905) is amended to read as follows:

Amend
§ 38-2905

(1) Subsection (e) is amended to read as follows:

(e)(1) "To receive funding, a DCPS or public charter school summer school program must offer at least 60 hours of instruction during the summer following the regular school year.

"(2) To receive full funding, a summer school program must offer at least 4 hours of instruction per day, 5 days a week, for 6 weeks for a total of at least 120 hours of instruction during the summer following the regular school year.

"(3) The fully funded summer school weighting of 0.17 shall apply for summer school programs that meet the requirements of paragraph (2) of this subsection.

"(4) Summer school programs that enroll students for less than 120 hours but more than 59 hours shall be funded on a pro-rate basis."

(2) A new subsection (f) is added to read as follows:

"(f)(1) Funding for special education students enrolled in summer school whose Individual Education Plans require extended school year or summer school services shall be calculated using the add-on weights corresponding to their special education service levels as defined in subsection (c) of this section.

(2) Special education add-on weights for summer school shall apply only to summer programs that deliver the specialized services required by the Individual Education Plans of their enrolled special education students."

(c) Section 107 (D.C. Official Code § 38-2906) is amended to read as follows:

Amend
§ 38-2906

"(a) Annual appropriations for the DCPS pursuant to the Formula shall be based on the number of resident students enrolled in the DCPS on October 5 in the year preceding the fiscal year for which the appropriation is made. This count shall be verified as provided in subsection (d) of this section.

"(b) Annual appropriations for public charter schools pursuant to the Formula shall equal the total estimated costs for the following:

"(1) The number of resident students projected to be enrolled in all public charter schools combined during the fiscal year for which the appropriation is made, plus;

"(2) The annual budget of the District of Columbia Public Charter School Board and, beginning in Fiscal Year 2002, the Public Charter School Office of the Board of Education, plus;

"(3) Five percent of the total amount generated pursuant to paragraphs (1) and (2) of this subsection, to be put into escrow as a reserve for payments to public charter schools in case enrollment, including enrollment in special needs categories, should exceed that of the projections on which costs are based pursuant to paragraph (2) of this subsection.

"(c) Any amount escrowed pursuant to subsection (b)(3) of this section that remains at

the end of each fiscal year shall revert to the General Fund.

"(d) The student counts reported for October 5 of each year shall be verified by an independent contractor commissioned by the Mayor. The independent contractor shall perform a audit on the student enrollment of each DCPS school and of each public charter school. The verification process shall begin no later than one week following the day on which the count is taken. The verification shall cover the information required by section 2402 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 257; D.C. Official Code § 38-1804.02), and shall be transmitted by the Mayor to the Council, the Comptroller General of the United States, and the appropriate congressional committees no later than the following December 31. Until the verification is transmitted, the unaudited October count shall serve as the basis for the annual appropriation for the following fiscal year and for quarterly payments.

"(e) Preliminary projections of public charter school enrollment shall be made by each eligible chartering authority for the public charter schools under its supervision, and submitted to the Mayor by the date on which the Board of Education is required to submit its budget request to the Mayor. The eligible chartering authorities may submit revisions of the projections to the Mayor and the Council at any time before the Council committee with oversight responsibilities for the public education budget reports its recommendations on that budget to the Council."

(d) New sections 107a and 107b are added to read as follows:

"Sec. 107a. Payments for District of Columbia Public Schools.

"(a) Following congressional enactment of appropriations for the District of Columbia for any fiscal year, the Mayor shall provide to the Board of Education the full amount of its appropriation in accordance with standard procedures for independent agencies.

"Sec. 107b. Payments to public charter schools.

"(a) The Mayor shall make payments to each public charter school from the escrow account established under section 2403 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 257; D.C. Official Code § 38-1804.03), ("School Reform Act") to a bank designated by each school. The annual payment shall be made in the form of 4 equal quarterly payments calculated in accordance with this section; provided, that the entire annual payment for facilities calculated pursuant to section 109 shall be included in the first payment of the fiscal year and that any payment for new charter schools determined pursuant to section 2403 of the School Reform Act shall also be included in the first payment of the fiscal year. The first payment shall be made no later than July 15. Subsequent payments shall be made no later than October 15, January 15, and April 15.

"(b)(1) Except as provided in paragraph (2) of this subsection, each payment shall be one-fourth of each public charter school's entitlement based on its October enrollment count. The basis of the July 15 and October 15 payments shall be the unaudited numbers contained in the reports submitted by the eligible chartering authorities under section 2402(a) of the School

Reform Act. The basis of the January 15 and April 15 payments shall be the audited October enrollment numbers, provided that these amounts shall be adjusted in accordance with the provisions of subsection (c) of this section.

"(2) The payment of October 15, 2000, shall be 50% of each public charter school's entitlement based on its unaudited October 5 enrollment count.

"(c) Payments shall not be reduced or delayed pending the conduct and results of the audit prescribed by section 107(d). If the audit finds that the number of verified resident students enrolled at any public charter school differs from that on which its July 15 and October 15 payments were based, the Mayor shall recalculate the appropriate amount of subsequent payments accordingly, adjusting them by the amount of the discrepancy.

"(d) Payments for special education, limited English proficient students, and other add-on components of the Funding Formula shall be included in the quarterly payments to public charter schools. Payments shall reflect one-quarter of the annual per student amount for each add-on; provided, that add-ons for special education and limited English proficient students shall be added on a pro-rata basis from the date on which a public charter school begins to provide add-on services for such students.

"(e) Prior to, or concurrent with, any payment made pursuant to this section, the Chief Financial Officer of the District of Columbia shall provide to each public charter school an accounting indicating the purpose of the payment and how the payment was calculated."

Sec. 102. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 226; D.C. Official Code § 38-1800.01 *et seq.*), is amended as follows:

(a) Section 2002(25)(A) (D.C. Official Code § 38-1800.02(25)(A)) is amended by striking the word "parent" and inserting the phrase "parent, guardian, custodian, or primary care giver, as determined pursuant to the District of Columbia Nonresident Tuition Act of 1960, approved September 8, 1960 (74 Stat. 853; D.C. Official Code § 38-302 *et seq.*)," in its place.

Amend
§ 38-1800.02

(b) Section 2402 (D.C. Official Code § 38-1804.02) is amended as follows:

Amend
§ 38-1804.02

(1) Subsection (a) is amended to read as follows:

"(a) *Quarterly reporting requirement.* – On June 30, October 15, December 15, and March 30 of each year the District of Columbia public schools and each eligible chartering authority shall submit a report to the Mayor containing the information described in subsection (b) of this section that is applicable to the schools under their respective authorities; provided, that in the case of the June 30 report, the information submitted by each eligible chartering authority shall be in the form of estimates of the number of students who will fall into each category on the following October 5."

(2) Subsection (c) is amended to read as follows:

"(c) *Annual reports.* – Not later than October 30 of each year the Mayor shall prepare and submit to the Authority (during a control year), the Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of

the calculations made pursuant to subsection (b) of this subsection, including the 4 immediately prior reporting periods specified in subsection (a) of this section."

(c) Section 2403 (D.C. Official Code § 38-1804.03) is amended as follows:

Amend
§ 38-1804.03

(1) Subsection (a)(2) is amended as follows:

(A) Subparagraph (A) is amended to read as follows:

"(A) *Initial payment.* --

"(i) *In General.* -- Except as provided in sub-subparagraph (ii) of this subparagraph, no later than July 15, October 15, January 15, and April 15 of each year, the Mayor shall transfer, by electronic funds transfer, the quarterly payments for each public charter school as prescribed in section 107b of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, to a bank designated by such school.

"(ii) *Reduction in case of a new school.* -- In the case of a public charter school that has received a payment pursuant to subsection (b) of this section in the fiscal year immediately preceding the fiscal year in which a transfer pursuant to sub-subparagraph (i) of this subparagraph is made, the amounts transferred to the school under sub-subparagraph (i) of this subparagraph shall be reduced by an amount equal to 25% of the amount of the payment made pursuant to subsection (b) of this section."

(B) Subparagraph (B) is repealed.

(2) Subsection (b) is amended as follows:

(A) Paragraph (4) is amended to read as follows:

"(4) *Credits to fund.* -- Upon the receipt of each of its payments pursuant to subsection (a)(2)(A) of this section by a public charter school described in paragraph (5) of this subsection, the Chief Financial Officer of the District of Columbia shall credit the New Charter School Fund with 25 % of the amount paid to the school pursuant to paragraph (3) of this subsection."

(B) Paragraph (5)(B) is amended to read as follows:

"(B) Has had its petition to establish a public charter school approved pursuant to section 2203 and is scheduled to begin operation as a public charter school in the fiscal year for which funds are appropriated to carry out the provisions of this subsection."

Title II. Board of Education Honoraria

Sec. 201. Section 801 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, effective October 18, 1989 (D.C. Law 8-41; D.C. Official Code § 1-1108.01), is amended as follows:

Amend
§ 1-1108.01

(a) Subsection (a) is amended by striking the phrase "subsection (c)" and inserting the phrase "subsections (a-1) and (c)" in its place.

(b) A new subsection (a-1) is added to read as follows:

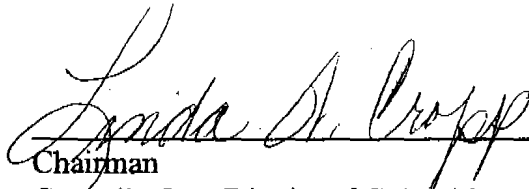
"(a-1) As of January 1, 2001, subsection (a) of this section shall no longer apply to members of the Board of Education."

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia

January 21, 2005

AN ACT
D.C. ACT 15-743IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend the Advisory Neighborhood Commissions Act of 1975 to require that notice be sent to Advisory Neighborhood Commissions, individual commissioners in affected single-member districts, and the Councilmember in the affected Ward of the intent of the District to acquire real property through lease or purchase or the intent to change the use of an existing property; to amend section 10 of An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes to prohibit the issuance of a building permit if the required notice is not given, and to require the Department of Consumer and Regulatory Affairs to issue a cease and desist order to any construction project undertaken by or on behalf of the District government that has not provided the proper notice.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Notice Requirement for Publicly Funded Building Projects Amendment Act of 2004".

Sec. 2. Section 13(b) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(b)), is amended by striking the phrase "District government actions or proposed actions" and inserting the phrase "District government actions or proposed actions, including (1) the intent to acquire an interest in real property, either through purchase or lease or (2) the intent to change the use of property owned or leased by or on behalf of the government," in its place.

Amend
§ 1-309.10

Sec. 3. Section 10 of An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and of the uses of land in the District of Columbia, and for other purposes, approved June 20, 1938 (52 Stat. 800; D.C. Official Code § 6-641.09), is amended as follows:

Amend
§ 6-641.09

(a) The existing text is designated as subsection (a).

(b) A new subsection (b) is added to read as follows:

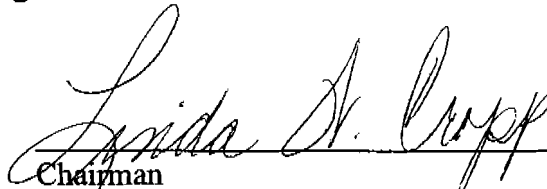
“(b) A building permit shall not be issued to or on behalf of the District government unless proper notice has been given under section 13 of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10). The Department of Consumer and Regulatory Affairs shall issue a cease and desist order to enjoin any construction project that is issued in noncompliance with this section.”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

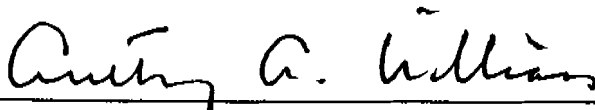
Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman

Council of the District of Columbia



Mayor

District of Columbia

APPROVED

January 19, 2005

AN ACT

D.C. ACT 15-744

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend Chapter 1 of Title 23 of the District of Columbia Official Code to require a judge in a criminal proceeding to inform an individual being sentenced to a period of imprisonment of more than 30 days who is subject to a child support order of the possibility of petitioning for modification or suspension of child support payments during the period of imprisonment, to require the sentencing court to provide the individual with a *pro se* petition to modify the child support order that may be filed in open court at sentencing, and to require the Clerk of the Superior Court of the District of Columbia to effectuate service of the petition; to amend the District of Columbia Child Support Enforcement Amendment Act of 1985 to provide that a petition for modification of a child support order filed by an individual sentenced to a term of imprisonment may be adjudicated after the individual has been released from imprisonment, and to provide that a petition for modification of a child support order filed by an individual during sentencing at a criminal proceeding shall be deemed filed in the case in which the child support order was entered as of its filing in open court; to amend section 16-916.01 of the District of Columbia Official Code to require the District's IV-D agency to determine whether a parent's incarceration has resulted in a change of financial circumstances that would warrant a modification of a child support order, and, if so, to request that the court suspend or modify the child support order; to amend Chapter 28 of Title 47 of the District of Columbia Official Code to exempt certain occupations from the restriction of being denied a license due to criminal conviction, and to establish procedures for determining whether an applicant may be denied a license because of a criminal conviction; to amend An Act To establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, to authorize a sentence reduction when an inmate has successfully completed a residential drug treatment program provided by the federal Bureau of Prisons; and to amend the Housing Production Trust Fund Act of 1988 to clarify that very-low income households that include individuals who previously have been incarcerated for or convicted of a felony are not disqualified from the category of households eligible to receive 40 percent of the fund for housing opportunities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Public Safety Ex-Offender Self-Sufficiency Reform Amendment Act of 2004".

TITLE I. MODIFYING CHILD SUPPPORT PAYMENT

Sec. 101. Short title.

This title may be cited as the "Child Support Payment Modification Amendment Act of 2004".

Sec. 102. Chapter 1 of Title 23 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the phrase "23-112a. Notice at sentencing of child support modification." after the phrase "23-112. Consecutive and concurrent sentences."

(b) A new section 23-112a is added to read as follows:

"§ 23-112a. Notice at sentencing of child support modification.

New
§ 23-112a

"(a) At all sentencing proceedings in which an individual will be sentenced for a period of imprisonment of more than 30 days, or at any proceeding in which a judge is revoking probation that will result in a sentence of imprisonment of more than 30 days, the sentencing court shall inquire as to whether the individual being sentenced is subject to a child support order. If the individual being sentenced is subject to a child support order, the sentencing court shall explain that:

"(1) The individual being sentenced may petition to modify or suspend child support payments during the period of the individual's imprisonment; and

"(2) Child support payments will continue to accrue under the order unless the order is modified or suspended.

"(b) The court shall provide each individual being sentenced with a copy of a *pro se* petition to modify the child support order pursuant to § 46-204. The petition may be filed in open court during sentencing. The petition shall be deemed filed in the case in which the child support order was entered as of its filing in open court, and the petition shall be included in the records of that case.

"(c) The clerk of the Court shall effectuate service of the petition in accordance with § 46-206."

Sec. 103. Section 5 of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Official Code § 46-204), is amended by adding a new subsection (d) to read as follows:

Amend
§ 46-204

"(d)(1) A petition for modification of a child support order filed pursuant to D.C. Official Code § 23-112a may be adjudicated after the petitioner has been released from imprisonment.

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“(2) A petition for modification of a child support order filed pursuant to D.C. Official Code § 23-112a(b) shall be deemed filed as of the date the petition is filed in open court during sentencing at a criminal proceeding.”.

Sec. 104. Section 16-916.01(o) of the District of Columbia Official Code is amended by adding a new paragraph (3A) to read as follows: Amend § 16-916.01

“(3A) In cases being enforced under title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2371; 42 U.S.C. § 651 *et seq.*), upon receipt of notice and documentation establishing that a parent is incarcerated in a specific facility, the IV-D agency shall review the circumstances of both parents and determine if a modification of the support order is appropriate under the guideline. If the IV-D agency determines that a parent’s incarceration has resulted in a change in financial circumstances warranting a modification of the support order, the IV-D agency may request the court to suspend or modify the support order pursuant to this subsection. Upon receipt of such a request, the court shall modify the support order in accordance with the guideline. The court may modify the support order from the date on which the IV-D agency received notice under this paragraph of the parent’s incarceration.”.

TITLE II. EXEMPTING TRADE OCCUPATIONS FROM CONVICTION RESTRICTION ON LICENSURE

Sec. 201. Short title.

This title may be cited as the “Trade Occupations Exemption from Conviction Restriction on Licensure Act of 2004”.

Sec. 202. Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-2853.12 (a)(1) is amended to read as follows:

“(1) Has not been convicted of an offense which bears directly on the fitness of the person to be licensed; provided, that this restriction shall not apply to the following occupations, unless the Mayor has issued rules before the effective date of the Trade Occupations Exemption from Conviction Restriction on Licensure Act of 2004, passed on 2nd reading on December 21, 2004 (Enrolled version of Bill 15-712), specifying the criteria for the determination of fitness for licensure based on a specific offense committed by an applicant:

- “(A) Asbestos worker;
- “(B) Barber;
- “(C) Cosmetologist;
- “(D) Commercial bicycle operator;
- “(E) Electrician;
- “(F) Funeral director;
- “(G) Operating engineer;

Amend
§ 47-2853.12

“(H) Plumber/gasfitter;

“(I) Refrigeration and air conditioning mechanic; and

“(J) Steam engineer.”.

(b) Section 47-2853.17 is amended as follows:

Amend
§ 47-2853.17

(1) Subsection (a)(5) is amended to read as follows:

“(5) Has been convicted in any jurisdiction of any crime involving any offense that bears directly on the fitness of the person to be licensed; provided, that this restriction shall not apply to the following occupations, unless the Mayor has issued rules before the effective date of the Trade Occupations Exemption from Conviction Restriction on Licensure Act of 2004, passed on 2nd reading on December 21, 2004 (Enrolled version of Bill 15-712), specifying the criteria for the determination of fitness for licensure based on a specific offense committed by an applicant:

“(A) Asbestos worker;

“(B) Barber;

“(C) Cosmetologist;

“(D) Commercial bicycle operator;

“(E) Electrician;

“(F) Funeral director;

“(G) Operating engineer;

“(H) Plumber/gasfitter;

“(I) Refrigeration and air conditioning mechanic; and

“(J) Steam engineer.”.

(2) New subsections (c-1) and (c-2) are added to read as follows:

“(c-1) An applicant may be denied a license or certificate by reason of a conviction which bears directly on the fitness of the person to be licensed only after consideration by the Mayor of the following criteria:

“(1) The specific duties and responsibilities necessarily related to the license sought;

“(2) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more of the duties or responsibilities specified under paragraph (1) of this subsection;

“(3) The time that has elapsed since the occurrence of the criminal offense or offenses;

“(4) The age of the applicant at the time of occurrence of the criminal offense or offenses;

“(5) The seriousness of the criminal offense or offenses;

“(6) Any information produced by the applicant, or produced on his behalf, in regard to his rehabilitation and good conduct; and

“(7) The legitimate interest in protecting property, and the safety and welfare of specific individuals or the general public.

“(c-2) If a conviction of a criminal offense which bears directly on the fitness of the person to be licensed is the basis for denial of an application for a license or certificate under subsection (c) of this section, the denial shall be in writing and specifically state the evidence presented and reasons for the denial. A copy of the denial shall be provided to the applicant.”

TITLE III. EARLY RELEASE FOR COMPLETION OF RESIDENTIAL DRUG ABUSE TREATMENT PROGRAM

Sec. 301. Short title.

This title may be cited as the “Early Release for Completion of Residential Drug Abuse Treatment Program Amendment Act of 2004”.

Sec. 302. Section 3a of An Act To Establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes, effective October 10, 1998 (D.C. Law 12-165; D.C. Official Code § 24-403.01), is amended by adding a new subsection (d-1) to read as follows:

Amend
§ 24-403.01

“(d-1)(1) A person sentenced to imprisonment under this section for a nonviolent offense may receive up to a one-year reduction in the term the person must otherwise serve if the person successfully completes a substance abuse treatment program in accordance with 18 U.S.C. § 3621(e)(2).

“(2) For the purposes of this subsection, the term “nonviolent offense” means any crime other than those included within the definition of “crime of violence” in D.C. Official Code § 23-1331(4).”

TITLE IV. AFFORDABLE HOUSING FOR EX-OFFENDERS

Sec. 401. Short title.

This title may be cited as the “Affordable Housing for Ex-Offenders Amendment Act of 2004”.

Sec. 402. Section 3(b-1)(A) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802(b-1)(A)), is amended by striking the phrase “very low-income households,” and inserting the phrase “very low-income households, which includes individuals who have previously been incarcerated for or convicted of a felony under state or federal law and who are otherwise entitled to services and assistance pursuant to this act,” in its place.

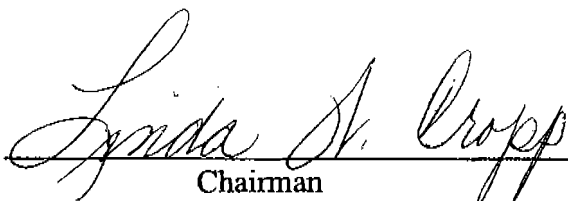
Amend
§ 42-2802

TITLE V. FISCAL IMPACT STATEMENT

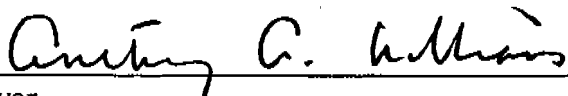
Sec. 501. The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

TITLE VI. EFFECTIVE DATE

Sec. 601. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED
January 19, 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-745

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To establish a Metropolitan Police Department School Safety Division that will be responsible for providing security to District of Columbia Public Schools; to provide that the School Safety Division shall be headed by a Director, appointed by the Chief of the Metropolitan Police Department; to require the Metropolitan Police Department to create a training curriculum for school resource officers and school security guards who will provide security to District of Columbia Public Schools; to require the Metropolitan Police Department and the District of Columbia Public Schools to enter into a Memorandum of Agreement for the provision of school security services; to require the Mayor to submit a deployment recommendation and a comprehensive implementation plan to the Council and the Board of Education; to transfer, as of August 2, 2004, the responsibility for issuing an RFP for security services from the DCPS to the MPD; and to make conforming amendments to the District of Columbia Procurement Practices Act of 1985.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "School Safety and Security Contracting Procedures Act of 2004".

Title I. Contracting Procedures

Sec. 101. Definitions.

For the purposes of this title, the term:

- (1) "DCPS" means the District of Columbia Public Schools.
- (2) "MPD" means the Metropolitan Police Department.
- (3) "School resource officer" means a sworn MPD officer assigned to DCPS for the purpose of working in collaboration with DCPS and community-based organizations to:
 - (A) Prevent crime through community-oriented policing strategies;
 - (B) Address crime and disorder, gang, and drug activity problems affecting or occurring in or around the schools to which the school resource officer is assigned; and

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(C) Ensure that DCPS schools and grounds are safe environments for students, teachers, and staff.

(4) "School security guards" means un-armed personnel, trained and hired by the MPD School Safety Division.

(5) "School security personnel" means school resource officers and school security guards.

(6) "Superintendent" means the Superintendent of the District of Columbia Public Schools.

Sec. 102. Establishment of the Metropolitan Police Department School Safety Division; functions of the School Safety Division.

(a) There is established within the Metropolitan Police Department a School Safety Division that shall provide security for the District of Columbia Public Schools.

(b) The School Safety Division shall be headed by a Director, appointed by, and reporting to, the Chief of Police with rank equal to an Assistant Chief.

(c) The School Safety Division shall:

(1) Hire all school security personnel for DCPS;

(2) Deploy school security personnel to DCPS;

(3) Provide oversight over school security personnel and be responsible for administering all disciplinary actions related to school security personnel, including termination;

(4) Execute, approve, monitor, and provide oversight over any contract for school security personnel; and

(5) Create and implement security and emergency operations plans for DCPS in concert with the Superintendent.

Sec. 103. Training for school security personnel.

The School Safety Division shall develop a training curriculum for all school security personnel providing security for DCPS. The curriculum shall be focused on training supervisory and on-site personnel so that they will provide appropriate security procedures for the various socioeconomic conditions at each educational facility. The curriculum shall include training in the following areas:

(1) Child development;

(2) Effective communication skills;

(3) Behavior management;

(4) Conflict resolution;

(5) Substance abuse and its effect on youth;

(6) Availability of social services for youth;

(7) District of Columbia laws and regulations, including Board of Education regulations; and

(8) Constitutional standards for searches and seizures conducted by school security personnel on school grounds.

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Sec. 104. Comprehensive plan on school security; Memorandum of Agreement.

(a) By March 1, 2005, the Mayor shall recommend to the Council whether the school security guards shall be employees of the MPD, employees of DCPS, or contracted for by the MPD for Fiscal Year 2006 and beyond.

(b) By June 1, 2005, the Mayor, in coordination with the Superintendent, DCPS administrators, parents, students and teachers, shall develop a comprehensive plan to implement this title and submit the plan to the Board of Education and the Council. The plan shall include the following:

- (1) The qualifications and hiring process for school security personnel;
- (2) The transfer of personnel, property, funds, and records including an ongoing procedure for allocating DCPS capital funds to MPD for security needs; and
- (3) Lines of authority, supervision, and communication between the MPD and DCPS, including a process for resolving disagreements between DCPS and MPD at all levels, accepted by both the Mayor and the Superintendent.

(c) The plan required by subsection (b) of this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed plan, in whole or in part, by resolution within this 45-day period, the proposed plan shall be deemed approved.

(d) MPD and DCPS shall enter into a Memorandum of Agreement that shall specify security terms and responsibilities as outlined in the recommendation and plan submitted by the Mayor pursuant to subsections (a) and (b) of this section.

(e) Both the comprehensive implementation plan and the Memorandum of Agreement required by this section shall describe in detail, but not be limited to, the following:

(1) How school security personnel deployed at each school will provide security in coordination with the school's principal; provided, that during emergencies, incident command shall be consistent with the District of Columbia response plan as defined by section 2(1A) of the District of Columbia Public Emergency Act of 1980, effective March 5, 1981 (D.C. Law 3-149; D.C. Official Code § 7-2301(1A)); and

(2) How the operating and capital funds, positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available to DCPS that support the provision of security to DCPS will be utilized to carry out the provisions of this title.

Sec. 105. Authority to issue RFP's for school security related contracts.

Responsibility for the issuance of a Request for Proposals for any security guard or security related contract for DCPS for a contract term to begin June 30, 2005, or later shall transfer to the MPD as of August 2, 2004. The responsibility for awarding, executing, and funding a contract resulting from an RFP issued under this section shall be the subject of a Memorandum of Agreement between DCPS and MPD.

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Sec. 106. Applicability of sections 102 and 103.

Sections 102 and 103 shall apply as of the first day of October 1, 2005, or upon the submission by the Mayor to the Council of a supplemental budget to effect the transfer of funds from DCPS to the MPD, whichever occurs first, and Council approval pursuant to section 104(c).

Title II. Conforming Amendments

Sec. 201. Section 104(d) of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.04(d)), is amended to read as follows:

Amend
§ 2-301.04

“(d)(1) Except as provided in this subsection, this act shall apply to the Board of Education.

“(2) The Board of Education shall have no authority to solicit, award, and execute contracts for the provision of security for the District of Columbia Public Schools for security contracts to begin June 30, 2005 or later.

“(3) Regarding contracts not prohibited by paragraph (2) of this subsection, the Board of Education shall have the authority to solicit, award, and execute contracts independently of the Office of Contracting and Procurement and the Chief Procurement Officer.”.

Title III. Fiscal Impact Statement and Effective Date

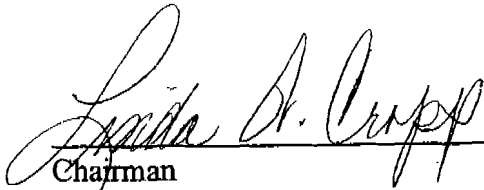
Sec. 301. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

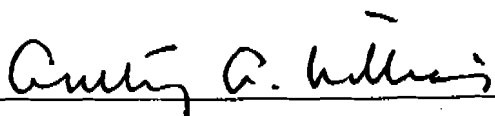
Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
January 19, 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-746

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend Title 47 of the District of Columbia Official Code to exempt from taxation certain real property owned directly or indirectly through any wholly owned subsidiary by a legitimate theater company, to exempt from taxation certain personal property owned directly or indirectly through any wholly-owned subsidiary by a legitimate theater company, and to exempt from gross sales tax sales to any organization that is wholly-owned by a legitimate theater company.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Lot 878 Square 456 Tax Exemption Clarification Act of 2004".

Sec. 2. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-1002 is amended as follows:

Amend
§ 47-1002

(1) Paragraph (19) is amended by striking the semicolon and inserting the phrase "and the real property (and any interest therein) situated on any portion of the lot that is designated, as of October 1, 2003, as lot 878 in square 456 and that is owned, occupied, and used, directly or indirectly through one or more wholly-owned subsidiary organizations, by a legitimate theater company is hereby exempt from all real property taxation so long as the property continues to be so owned and occupied, and used for the exempt purposes described in §47-1002(18) and §47-1002(19), providing for exemption of certain real properties;" in its place.

(2) Paragraph (28)(B)(ii) is amended by striking the phrase "a theater company described in paragraph (19) of this section" and inserting the phrase "a theater company described in paragraph (19) of this section or any wholly-owned subsidiary of the theater company" in its place.

(b) Section 47-1052(a)(8) is amended as follows:

Amend
§ 47-1052

(1) Subparagraph (A) is amended by striking the word "and".

(2) Subparagraph (B) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new subparagraph (C) is added to read as follows:

"(C) Is the current wholly-owned subsidiary of an entity that is described in the

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subparagraphs (A) and (B) of this paragraph.”.

(c) Chapter 46 is amended as follows:

(1) The table of contents is amended by adding the section designation "Lot 878, square 456 personal property tax and sales tax exemption." at the end.

(2) A new section 47-4604 is added to read as follows:

New
§ 47-4604

“§ 47-4604. Lot 878, square 456 personal property tax and sales tax exemption.

“(a) The personal property of any organization that is wholly-owned by a legitimate theater company, which is a District of Columbia nonprofit corporation, and that acquires any portion of the lot that is designated, as of October 1, 2003, as lot 878 in square 456 in the District of Columbia, shall be exempt from the tax imposed by Chapter 15 to the same extent as if the personal property was owned by the legitimate theater company.

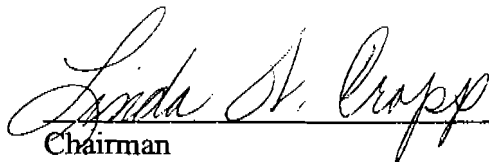
“(b) Sales to any organization that is wholly-owned by a legitimate theater company, which is a District of Columbia nonprofit corporation, and that acquires any portion of the lot that is designated, as of October 1, 2003, as lot 878 in square 456 in the District of Columbia, shall be exempt from the tax imposed by Chapter 20 to the same extent as if the sale was made to the legitimate theater company.”.

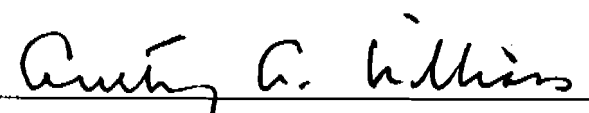
Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED January 19, 2005

AN ACT
D.C. ACT 15-747

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005Codification
District of
Columbia
Official Code

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to authorize the Board of Education and Board of Trustees for the University of the District of Columbia to establish the tour of duty for employees of the respective boards; to clarify that management retains the sole right to determine the mission of the agency, its budget, its organization, the number of employees, the number, types, and grades of positions of employees assigned to an organizational unit, work project, or tour of duty, the technology of performing its work, and its internal security practices, and to establish the tour of duty; to require that working conditions or non-compensation matters shall be negotiated concurrently with negotiations concerning compensation when the compensation agreement to be negotiated is for a newly certified collective bargaining unit assigned to a newly created compensation unit; to require that the parties negotiating a compensation agreement shall proceed promptly to negotiate concurrently any working conditions, other non-compensation matters, and coverage of the compensation agreement when the compensation agreement to be negotiated is for a newly certified collective bargaining unit assigned to an existing compensation unit; to require that a mediator or Board of Arbitration consider non-compensation matters at impasse at the same time compensation matters at impasse are considered, if requested by both parties or ordered by the Executive Director of the Public Employee Relations Board; and to ensure that all information concerning negotiations of compensation be considered confidential until impasse resolution proceedings have been concluded or upon settlement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Labor Relations and Collective Bargaining Amendment Act of 2004".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 1201(a)(2) (D.C. Official Code § 1-612.01(a)(2)) is amended to read as follows:

Amend
§ 1-612.01

"(2) The basic workweek, hours of work, and tour of duty for all employees

of the Board of Education and the Board of Trustees of the University of the District of Columbia shall be established under rules and regulations issued by the respective Boards; provided, that the basic work scheduling for all employees in recognized collective bargaining units to these established tours of duty shall be subject to collective bargaining, and collective bargaining provisions related to scheduling shall take precedence over conflicting provisions of this title.”.

(b) Section 1708 (D.C. Official Code § 1-617.08) is amended as follows:

Amend
§ 1-617.08

(1) Subsection (a)(5) is amended to read as follows:

“(5) To determine:

“(A) The mission of the agency, its budget, its organization, the number of employees, and to establish the tour of duty;

“(B) The number, types, and grades of positions of employees assigned to an agency’s organizational unit, work project, or tour of duty;

“(C) The technology of performing the agency’s work; and

“(D) The agency’s internal security practices; and”.

(2) A new subsection (a-1) is added to read as follows:

“(a-1) An act, exercise, or agreement of the respective personnel authorities (management) shall not be interpreted in any manner as a waiver of the sole management rights contained in subsection (a) of this section.”.

(c) Section 1717 (D.C. Official Code § 1-617.17) is amended as follows:

Amend
§ 1-617.17

(1) Subsection (f) is amended as follows:

(A) Paragraph (1)(A) is amended to read as follows:

“(A)(i) A party seeking to negotiate a compensation agreement shall serve a written demand to bargain upon the other party during the period 120 days to 90 days prior to the first day of the fiscal year, for purposes of negotiating a compensation agreement for the subsequent fiscal year.

“(ii) Where the compensation agreement to be negotiated is for a newly certified collective bargaining unit assigned to a newly created compensation unit, working conditions or other non-compensation matters shall be negotiated concurrently with negotiations concerning compensation.

“(iii) Where the compensation agreement to be negotiated is for a newly certified collective bargaining unit assigned to an existing compensation unit, the parties shall proceed promptly to negotiate concurrently any working conditions, other non-compensation matters, and coverage of the compensation agreement.”.

(B) Paragraph (3) is amended by striking the number “20” and inserting the number “45” in its place.

(C) A new paragraph (3A) is added to read as follows:

“(3A) If requested by both parties or ordered by the Executive Director of the Public Employee Relations Board, a mediator or Board of Arbitration appointed pursuant to paragraphs (2) or (3) of this subsection shall consider non-compensation matters at impasse at the same time it considers compensation matters at impasse.”.

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(D) Paragraph (4) is amended by striking the phrase "(1), (2), or (3)" and inserting the phrase "(1), (2), (3), or (3A)" in its place.

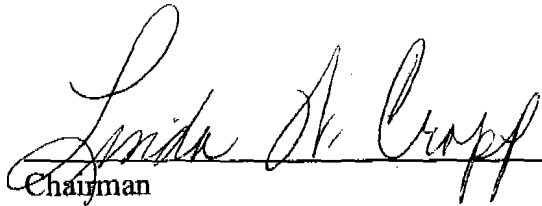
(2) Subsection (h) is amended by striking the phrase "until impasse or settlement." and inserting the phrase "until impasse resolution proceedings have been concluded or upon settlement." in its place.

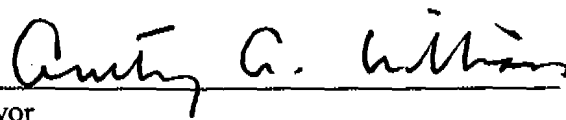
Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
January 19, 2005

AN ACT
D.C. ACT 15-748IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANAURY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To change the manner in which adults facing criminal charges who may be incompetent to stand trial are evaluated and treated; to amend An Act To establish a code of law for the District of Columbia to repeal unnecessary provisions pertaining to competency of criminal defendants.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Incompetent Defendants Criminal Commitment Act of 2004".

TITLE I. EVALUATION AND TREATMENT
OF INCOMPETENT DEFENDANTS

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Competence" means that a defendant has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and has a rational, as well as a factual, understanding of the proceedings against him or her.

(2) "Court" or "Superior Court" means the Superior Court of the District of Columbia.

(3) "Defendant" means a defendant in a criminal case or a respondent in a transfer proceeding.

(4) "DMH" means the Department of Mental Health.

(5) "Incompetent" means that, as a result of a mental disease or defect, a defendant does not have sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding or does not have a rational, as well as a factual, understanding of the proceedings against him or her.

(6) "Inpatient treatment facility" means:

(A) Saint Elizabeths Hospital;

(B) Any other physically secure hospital for the examination or treatment of persons with mental illness; or

(C) Any physically secure or staff-secure facility for the examination, treatment, or habilitation of persons with mental retardation.

(7) "MRDDA" means the Mental Retardation and Developmental Disabilities Administration.

(8) "Transfer proceeding" means a proceeding pursuant to D.C. Official Code § 16-2307 to transfer a respondent who is alleged to be a delinquent in a juvenile case from the Family Court to the Criminal Division of the Superior Court of the District of Columbia to face adult criminal charges.

(9) "Treatment" means the services or supports provided to persons with mental

illness or mental retardation, including services or supports that are offered or ordered to restore a person to competence, to assist a person in becoming competent, or to ensure that a person will be competent.

(10) "Treatment provider" means:

(A) The Department of Mental Health;

(B) The Mental Retardation and Developmental

Disabilities Administration;

(C) An inpatient treatment facility as defined in paragraph (6) of this section; or

(D) Any other entity or individual designated by the DMH or MRDDA to provide evaluation, examination, treatment, or habilitation pursuant to this title that:

(i) Is duly licensed or certified under the laws of the District of Columbia to provide services or supports to persons with mental illness or mental retardation, or both; and

(ii) Has entered into an agreement with the District to provide mental health services or mental health supports or to provide services or supports to persons with mental retardation.

Sec. 102. Competence to proceed -- generally.

(a) A defendant shall not be tried, be sentenced, enter a guilty plea, or be subject to revocation of probation or a transfer proceeding if the court determines that the defendant is incompetent.

(b)(1) Any proceeding to determine whether a defendant is incompetent shall not delay a determination of probable cause to believe that the defendant has committed the offense with which he or she is charged or the defendant's eligibility for pretrial release or detention pursuant to Subchapter I of Chapter 23 of Title 16 or Subchapter II of Chapter 13 of Title 23 of the District of Columbia Official Code.

(2) A defendant who is otherwise entitled to pretrial release shall not be involuntarily confined or taken into custody solely because the issue of the defendant's competence has been raised and an examination or treatment has been ordered, unless the court determines that the defendant may be committed as an inpatient for a full competence examination pursuant to section 103(e) or for competence treatment pursuant to section 105.

(3) If the court orders a full competence examination or competence treatment on an outpatient basis, the court may order the defendant to appear at a designated time and place for the examination or treatment and may make the appearance a condition of the defendant's pretrial release.

(c) The prosecutor or defense attorney may file any motion in the underlying criminal case, transfer proceeding, or probation revocation at any time while the defendant is incompetent. The court shall hear and decide any issue presented by the motion if the defendant's presence is not constitutionally required or, as determined by the court, essential for a fair hearing.

(d) Nothing in this title shall be construed to prevent the government or any person from petitioning the court for involuntary civil commitment pursuant to Subchapter IV of Chapter 5 of Title 21 of the District of Columbia Official Code or Title IV of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.01 *et seq.*).

Sec. 103. Competence examinations.

(a) At any time after the prosecutor moves for a transfer from the Family Court to the Criminal Division of the Superior Court or charges a criminal offense by complaint, information, or indictment, either party may request, or the court on its own may order, that the defendant be examined to determine the defendant's competence.

(b) When the issue of a defendant's competence has been raised, the court shall order a preliminary screening examination before ordering a full competence examination pursuant to subsection (d) of this section.

(c)(1) A preliminary screening examination shall be performed either in the courthouse or on an outpatient basis by a psychiatrist or psychologist affiliated with the Department of Mental Health.

(2) The court shall schedule a return date or time for the defendant as early as possible following the order for the preliminary screening examination issued pursuant to subsection (b) of this section. In no case shall the return date be more than 3 business days after the order if the defendant is not released and no more than 5 business days after the order if the defendant is released.

(3) The examination shall be completed and a report submitted to the court in advance of the return date or time. The report shall indicate whether the defendant is competent, incompetent, or whether further evaluation is needed.

(4) The court shall consider the report of the preliminary screening examination, any arguments made by the parties, and any other information available to the court, and shall either:

(A) Find the defendant competent and resume the criminal case or transfer proceeding; or

(B) Order the defendant to submit to a full competence examination.

(d)(1) An order for a full competence examination pursuant to subsection (c)(4)(B) of this section shall direct the Department of Mental Health to examine the defendant. The full competence examination shall be performed by a psychiatrist or psychologist affiliated with the Department of Mental Health.

(2) The Department of Mental Health shall submit a written report to the court as to the defendant's competence.

(3) Any psychiatrist or psychologist who participated in the examination shall be available to testify at any hearing involving the defendant's competence.

(e) A full competence examination may be conducted on an inpatient or outpatient basis. The court may order the defendant committed to Saint Elizabeths Hospital or to the Department of Mental Health for an inpatient examination only after a finding by the court that:

(1) Placement in an inpatient treatment facility is necessary in order to conduct an adequate examination; or

(2) The defendant is unlikely to comply with an order for an outpatient examination.

(f)(1) If the court orders the defendant committed as an inpatient for a full competence examination under subsection (e) of this section, the commitment for examination shall not exceed 30 days, except that the commitment may be extended for a 15-day period for good cause shown.

(2)(A) The Department of Mental Health shall submit a written report to the court:

(i) As soon as it reaches a conclusion that the defendant is competent or is incompetent; or

(ii) Any time it determines that the criteria for an inpatient examination set forth in subsection (e) of this section are no longer met.

(B) If the defendant is reported incompetent, the report shall include an opinion regarding the likelihood of the defendant's attaining competence in the foreseeable future or should state that no opinion has been formed on the likelihood of the defendant attaining competence.

(C) If a report indicates that the criteria for an inpatient examination set forth in subsection (e) of this section are no longer met, the court shall make new findings under subsection (e) of this section and, if it determines that the examination can be conducted on an outpatient basis, shall determine the defendant's eligibility for pretrial release pursuant to Subchapter I of Chapter 23 of Title 16 or Subchapter II of Chapter 13 of Title 23 of the District of Columbia Official Code, if it has not previously done so. If necessary, the court may enter a new order for a full competence examination to be completed on an outpatient basis.

(D) If the court receives either report required under subparagraph (A) of this paragraph more than one court day prior to the scheduled return date, the court shall have the defendant brought before the appropriate judge on the next court day following receipt of the report for appropriate proceedings under section 104.

(g)(1) If the court orders a full competence examination to be conducted on an outpatient basis, it shall be completed and a report submitted to the court in advance of the defendant's return date as determined under section 104(a).

(2) The Department of Mental Health shall submit a written report to the court at any time it determines that the criteria for an inpatient examination set forth in subsection (e) of this section are met. If the court receives such a report, it shall schedule the matter for a hearing as soon as practicable, to determine the appropriate disposition under subsection (e) of this section.

Sec. 104. Initial competence determination.

(a)(1) A hearing to determine competence of a defendant shall be set:

(A) No more than 30 days from the date the competence examination is ordered for a defendant who is detained or committed for an inpatient examination; and

(B) No more than 45 days from the date the competence examination is ordered for a defendant who is released and ordered to participate in an outpatient examination.

(2) On its own motion or the motion of one of the parties, and for good cause shown, the court may extend the time for the hearing by not more than 15 days.

(b) A defendant is presumed to be competent. Incompetence must be established by a preponderance of the evidence. The burden of proof is on the party asserting incompetence. The court may call its own witnesses and conduct its own inquiry.

(c)(1) At the conclusion of the hearing, the court shall:

(A) Find that the defendant is competent; or

(B) Find that the defendant is incompetent and:

(i) Is likely to attain competence in the foreseeable future or additional time is necessary to assess whether the defendant is likely to attain competence in the foreseeable future; or

(ii) Is unlikely to attain competence in the foreseeable future.

(2) If the court finds the defendant is competent, it shall resume the criminal case or transfer proceeding.

(3) If the court finds the defendant is incompetent and makes either of the findings under paragraph (1)(B)(i) of this subsection, the court shall order treatment for the restoration of competence.

(4) If the court finds the defendant is incompetent and unlikely to attain competence in the foreseeable future, the court shall order either the release of the defendant or further treatment pursuant to section 106(c)(4).

Sec. 105. Competence treatment.

(a)(1) If the court makes a finding pursuant to section 104(c)(1)(B)(i), the court may order the defendant to participate in treatment for restoration of competence on an inpatient or outpatient basis. The court shall order treatment in the least restrictive setting consistent with the goal of restoration of competence.

(2) The court may order inpatient treatment if it finds that:

(A) Placement in an inpatient treatment facility setting is necessary in order to provide appropriate treatment; or

(B) The defendant is unlikely to comply with an order for outpatient treatment.

(3) If the court orders treatment on an outpatient basis, it shall direct DMH or MRDDA, or both, to designate an appropriate treatment provider. If the court orders treatment on an inpatient basis it shall commit the defendant to Saint Elizabeths Hospital or direct DMH or MRDDA, or both, to designate an appropriate inpatient treatment facility.

(b) Except as provided in subsections (c) and (d) of this section, the court may order the defendant to undergo competence treatment on an inpatient basis for one or more periods of time, not to exceed 180 days in the aggregate.

(c) Except as provided in subsection (d) of this section, the court may order a defendant charged with a crime of violence, as defined in D.C. Official Code § 23-1331(4), to undergo competence treatment on an inpatient basis for one or more reasonable periods of time, not to exceed 180 days each, if the court finds:

(1) There is a substantial probability that within the period of time to be ordered the defendant will attain competence or make substantial progress toward that goal; and

(2) Inpatient treatment is the least restrictive setting based on the criteria set forth in subsection (a) of this section.

(d)(1) Excluding extended treatment pending the completion of civil commitment proceedings ordered pursuant to section 106(c)(4) or section 107(a)(2), inpatient treatment may last no longer than the maximum possible sentence that the defendant could have received if convicted of the pending charges.

(2) If, during inpatient treatment ordered to restore a defendant to competence, the maximum possible sentence the defendant could have received if convicted of the pending charges expires, the court shall either release the defendant or, where appropriate, enter an order for extended treatment pursuant to section 106(c)(4) or section 107(a)(2).

(3) The defendant shall be awarded credit against any term of imprisonment imposed after being found competent for any time during which he was committed to an inpatient treatment facility for either a competence examination or competence treatment.

(e)(1) The court may order the defendant to undergo competence treatment on an outpatient basis for one or more reasonable periods of time, not to exceed 180 days each, if the court finds there is substantial probability that within the period of time to be ordered the defendant will attain competence or make substantial progress toward that goal.

(2) The Department of Mental Health or the treatment provider shall submit a written report to the court at any time it determines that the criteria for inpatient treatment set forth in subsection (a) of this section are met.

Sec. 106. Court hearings during and after treatment.

(a) The Court shall hold a prompt hearing, with reasonable notice of such hearing given to the prosecuting attorney, the defendant, and the defendant's attorney of record, and make a new finding as to the defendant's competence when:

- (1) Any period of treatment ordered under section 105(b), (c), or (e) of this section is completed; or
- (2) The treatment provider reports to the court that reasonable grounds exist to believe that:

- (A) An incompetent defendant has attained competence;
- (B) There is no longer a substantial probability that a defendant will attain competence during the allowable treatment period;
- (C) If the defendant is committed to an inpatient treatment facility, such commitment is no longer the least restrictive setting considering the factors in section 105(a); or
- (D) If the defendant has been ordered to undergo competence treatment on an outpatient basis, such a setting is no longer appropriate considering the factors in section 105(a).

(b) In advance of any hearing held pursuant to subsection (a) of this section, the treatment provider shall submit a written report to the court addressing:

- (1) The defendant's competence, including any progress or lack thereof made toward attaining competence;
- (2) Whether there is a substantial probability that the defendant will attain competence during the foreseeable future, or make substantial progress toward that goal;
- (3) If the defendant is committed to an inpatient facility, whether such commitment remains the least restrictive setting considering the factors in section 105(a); and
- (4) If the defendant has been ordered to undergo treatment on an outpatient basis, whether such a setting is no longer appropriate considering the factors in section 105(a).

(c)(1) At the conclusion of a hearing held pursuant to subsection (a) of this section, the court shall:

- (A) Find that the defendant is competent; or
- (B) Find that the defendant is incompetent and:
 - (i) There is a substantial probability that the defendant will attain competence or make substantial progress toward that goal with an additional period of time; or
 - (ii) There is no substantial probability that he or she will attain competence or make substantial progress toward that goal in the foreseeable future.
- (2) If the court finds the defendant is competent, it shall order the criminal case or transfer proceeding to be resumed.
- (3) If the court finds the defendant is incompetent pursuant to paragraph (1)(B)(i) of this subsection, the court shall order treatment for an additional period of time in accordance with section 105(b), (c), or (e), after making a finding as to the least restrictive placement for treatment pursuant to section 105(a).
- (4) If the court finds the defendant is incompetent pursuant to paragraph (1)(B)(ii) of this subsection, the court shall either order the release of the defendant or, where appropriate, enter an order for treatment pursuant to section 105(a) for up to 30 days pending the filing of a petition for civil commitment pursuant to Subchapter IV of Chapter 5 of Title 21 of the District of Columbia Official Code or Title IV of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.01 *et seq.*). The court also may order treatment pursuant to section 107(a)(2) for such period as is necessary for the completion of the civil commitment

proceedings.

Sec. 107. Extending treatment pending the completion of a civil commitment proceeding. (a) Thirty days after the court has ordered extended treatment pursuant to section 106(c)(4), the court shall hold a status hearing to determine whether civil commitment proceedings have been initiated pursuant to D.C. Official Code § 21-541 or Title IV of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.01 *et seq.*).

(1) If a petition for civil commitment has not been filed prior to the hearing, the court shall release the defendant from treatment unless extraordinary cause is shown for the failure to file the petition, in which case the court may grant an additional 5 days within which to file a petition.

(2) If a petition for civil commitment has been filed, the court may either order that treatment be continued until the entry of a final order in the civil commitment case or release the defendant from treatment.

(b)(1) If the court orders the release of a person in the criminal case or transfer proceeding who has been committed to an inpatient treatment facility, and a petition for civil commitment has been filed pursuant to Title IV of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.01 *et seq.*) ("Act"), the court shall remand the person to the inpatient treatment facility and the inpatient treatment facility may detain the person pending a hearing on the petition conducted pursuant to section 312a of the Act (D.C. Official Code § 7-1303.12a).

(2) Within 7 days of the remand order, a person so detained may request a probable cause hearing on the defendant's continued detention before the Family Court of the Superior Court of the District of Columbia, in which case a hearing shall be held within 24 hours after the receipt of the request.

(c)(1) If the court orders the release of a person in the criminal case or transfer proceeding who has been committed to an inpatient treatment facility, and a petition for civil commitment has been filed pursuant to D.C. Official Code § 21-541, the court shall remand the person to the inpatient treatment facility and the inpatient treatment facility may detain the person pending a hearing on the petition conducted pursuant to D.C. Official Code § 21-542.

(2) Within 7 days of the remand order, a person so detained may request a probable cause hearing on the person's continued detention before the Family Court of the Superior Court of the District of Columbia pursuant to D.C. Official Code § 21-525, in which case a hearing shall be held within 24 hours after the receipt of the request.

(d) If the court orders the release of a defendant in the criminal case or transfer proceeding who has been committed to an inpatient treatment facility, and a petition for civil commitment has not been filed pursuant to D.C. Official Code § 21-541 or Title IV of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1304.01 *et seq.*), the court may stay the defendant's release for a period not to exceed 48 hours and remand the person to Saint Elizabeths Hospital or other inpatient treatment facility for the period of the stay so that the Department of Mental Health or the Mental Retardation and Development Disabilities Administration, or both, may, where appropriate, file a petition for the defendant's involuntary commitment to either the Department of Mental Health or to the Mental Retardation and Developmental Disabilities Administration, or both.

Sec. 108. Dismissal.

(a) If a defendant charged with any offense other than a crime of violence, as defined in D.C. Official Code § 23-1331(4), does not attain competence within 180 days of an order for treatment pursuant to section 105, the charge shall be dismissed without prejudice upon:

(1) The completion of civil commitment proceedings, if a petition for commitment was filed; or

(2) A determination by the court that the time within which the government must file a petition for civil commitment has expired and a petition for civil commitment has not been filed.

(b) If a defendant charged with a crime of violence, as defined in D.C. Official Code § 23-1331(4), except murder, first degree sexual abuse, or first degree child sexual abuse, has not attained competence within 5 years of the initial order for treatment pursuant to section 104, the charge shall be dismissed without prejudice.

(c) Any charge dismissed pursuant to subsection (a) or (b) of this section may be refiled if, at any time within the statute of limitations, the defendant attains competence; provided, that a defendant may not be arrested or detained on such a charge unless a court has found that the defendant is competent.

(d) Nothing in this section shall preclude the prosecutor or the defendant from moving to dismiss a case at an earlier time on any appropriate grounds.

Sec. 109. Involuntary medication.

(a) Except as set forth in subsection (b) of this section, a defendant who is ordered to submit to a competence examination under section 103, or a defendant who is determined after a hearing to be incompetent and is ordered by the court to undergo treatment pursuant to sections 105 or 106, may not be administered medication involuntarily if the sole purpose for doing so would be to render the defendant competent. For any other purpose, the defendant may be administered medication without his or her consent consistent with section 208 of the Mental Health Service Delivery Reform Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1231.08), and the regulations promulgated thereunder.

(b)(1) The Court may order the involuntary administration of medication for the sole purpose of rendering the defendant competent only if:

(A) It orders the defendant to participate in treatment for restoration of competence pursuant to section 105; and

(B) The Court determines that the government's interest in bringing the defendant to trial or proceeding with sentencing, probation revocation, or transfer outweighs the defendant's interest in refusing medication to render him or her competent.

(2) In making the determination required by paragraph 1(B) of this subsection, the court must find that:

(A) The defendant has been charged with a dangerous crime or a crime of violence as those terms are defined in D.C. Official Code § 23-1331(3) and (4), respectively;

(B) The administration of medication is substantially likely to render the defendant competent;

(C) The administration of medication is substantially unlikely to have side effects that will significantly interfere with the defendant's ability to assist counsel in conducting a defense;

(D) Involuntary medication is necessary to further the government's interest because any less intrusive treatments alternatives are unlikely to render the defendant competent; and

(E) The administration of medication is medically appropriate.

Sec. 110. Statements made during the course of competence examination or treatment.

(a) Any statement that is obtained during a court-ordered examination, evaluation, or treatment, or any evidence resulting from that statement, is not admissible at any proceeding to determine a defendant's guilt or innocence or to determine an appropriate sentence, except when the defendant puts his competence or mental health at issue in the proceeding.

(b) Any statement made by the defendant during a court-ordered examination, evaluation, or treatment, or any evidence resulting from that statement, concerning any other event or transaction is not admissible at any proceeding to determine the defendant's guilt or innocence of any other criminal charges or to determine an appropriate sentence based on those events or transactions, except when the defendant puts his competence or mental health concerning those events or transactions at issue in any legal proceeding.

Sec. 111. Tolling provisions.

In computing any time period in this title, the court shall exclude the following periods:

(1) Any time in which the defendant is unable to participate in a preliminary screening examination, a full competence examination, or treatment to restore competence due to physical incapacity;

(2) Any time in which the defendant fails or refuses to participate in a preliminary screening examination, a full competence examination, or treatment to restore competence;

(3) Any time due to the defendant's failure to appear for a preliminary screening examination, a full competence examination, or treatment to restore competence; and

(4) Any time from the filing of a motion or petition through its disposition, including any appeals, which prevents or delays the conduct of a preliminary screening examination, a full competence examination, or treatment to restore competence, including involuntary medication.

Sec. 112. Independent experts.

At any time from the initial court appearance through the conclusion of the transfer proceeding or the criminal case, the Court may, upon request, authorize either the prosecutor or defense attorney, or both, to engage one or more independent experts to examine the defendant for competence and any related issues.

Sec. 113. General provisions.

(a) Nothing in this title shall preclude a person confined under the authority of this title from establishing his or her eligibility for release under the provisions of this title by a writ of habeas corpus.

(b) The provisions of this title shall supersede in the District of Columbia the provisions of any federal statutes or parts thereof inconsistent with this title.

(c) When a person has been ordered confined in a hospital for the mentally ill pursuant to this title and has escaped from such hospital, the court which ordered confinement shall, upon request of the government, order the return of the escaped person to such hospital. The return order shall be effective throughout the United States. Any federal judicial officer within whose jurisdiction the escaped person shall be found shall, upon receipt of the return order issued by the committing court, cause such person to be apprehended and delivered up for return to such hospital.

TITLE II. REPEALER; CONFORMING AMENDMENTS

Sec. 201. Section 927 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1340; D.C. Official Code § 24-501), is amended as follows: Amend
§ 24-501

- (a) Subsection (a) is repealed.
- (b) Subsection (a-1) is repealed.
- (c) Subsection (b) is repealed.

Sec. 202. Section 929 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1340; D.C. Official Code § 24-503), is amended by repealing subsection (a). Amend
§ 24-503

Sec. 203. Section 16-2307(c) of the District of Columbia Official Code is amended by striking the phrase "section 24-501" each time it appears and inserting the phrase "Title I of the Incompetent Defendants Criminal Commitment Act of 2004, passed on 2nd reading on December 21, 2004 (Enrolled version of Bill 15-967)" in its place. Amend
§ 16-2307

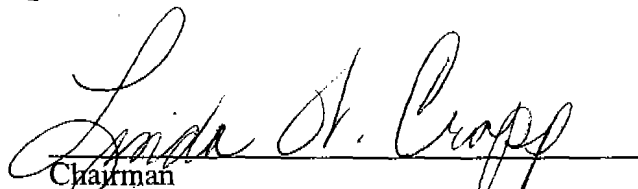
TITLE III. FISCAL IMPACT STATEMENT EFFECTIVE DATE


Sec. 301. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

Approved
January 19, 2005

AN ACT
D.C. ACT 15-749

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
 JANUARY 21, 2005

*Codification
 District of
 Columbia
 Official Code*

2001 Edition

2005 Winter
 Supp.

West Group
 Publisher

To establish the Department of Youth Rehabilitation Services and provide for its composition, staff, powers, and duties; and to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to add the Department of Youth Rehabilitation Services to the list of subordinate agencies.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Department of Youth Rehabilitation Services Establishment Act of 2004".

TITLE I.

Sec. 101. Definitions.

For the purposes of this title, the term:

(1) "Aftercare services" means programs and services designed to provide care, supervision, and control over children released from facilities.

(2) "Committed" means the removal of a youth from his or her home as a result of an order of adjudication or an order of disposition and placement in the care and custody of the Department of Youth Rehabilitation Services.

(3) "Contracted provider" means any agency, organization, corporation, association, partnership, or individual, either for profit or not for profit, who agrees in writing to provide specific services or organizational supports to youth in the Department's care and custody.

(4) "Conviction" means a judicial finding, jury verdict, or final administrative order, including a finding of guilt, a plea of *nolo contendere*, or a plea of guilty to a criminal charge enumerated in section 105(g), or a finding that a child who is the subject of a report of child abuse has been abused by the employee or prospective employee.

(5) (A) "Custody" means the legal status created by a Family Court order which vests in the Department the responsibility for the custody of a minor, including:

(i) Physical custody and the determination of where and with whom the minor shall live;

(ii) The right and duty to protect, train, and discipline the minor; and

(iii) The responsibility to provide the minor with food, shelter, education,

and ordinary medical care.

(B) A Family Court order of "legal custody" is subordinate to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

(6) "Department" means the Department of Youth Rehabilitation Services.

(7) "Detained" means the temporary, secure custody of a child in facilities designated by the Family Court and placed in the care of the Department, pending a final disposition of a petition and following a hearing in accordance with D.C. Official Code § 16-2312.

(8) "Facilities" means any youth residential facility, group home, foster home, shelter, secure residential or institutional placement owned, operated, or under contract with the Department, excluding residential treatment facilities and accredited hospitals.

(9) "Family Court" means the Family Court of the Superior Court of the District of Columbia.

(10) "Person in Need of Supervision" or "PINS" means a "child in need of supervision" as that term is defined by D.C. Official Code § 16-2301(8).

(11) "Rehabilitative services" means services designed to assist youth in acquiring, retaining, and improving their socialization, behavioral, and generic competency skills necessary to reintegrate into their home and community-based settings.

(12) "Youth" means a "child" as that term is defined by D.C. Official Code § 16-2301(3). The terms "juvenile," "child," and "resident" appearing in this title are used interchangeably.

(13) "Youth residential facility" means a residential placement providing adult supervision and care for one or more children who are not related by blood, marriage, guardianship, or adoption (including both final and non-final adoptive placements) to any of the facility's adult caregivers and who were found to be in need of a specialized living arrangement as the result of a detention or shelter care hearing held pursuant to D.C. Official Code § 16-2312 or a dispositional hearing held pursuant to D.C. Official Code § 16-2317.

Sec. 102. Establishment and purposes of the Department of Youth Rehabilitation Services.

(a) Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Department of Youth Rehabilitation Services is established as a separate Cabinet-level agency, subordinate to the Mayor, within the executive branch of the government of the District of Columbia. The Department shall lead the reform of the District's juvenile justice system by coordinating the collaborative efforts of government agencies, contracted providers, labor, and community leaders to:

(1) Improve the security, supervision, and rehabilitation services provided to committed and detained juvenile offenders and Persons in Need of Supervision ("PINS");

(2) Develop and maintain a holistic, family-oriented approach to the provision of youth services that emphasizes youth and parental responsibility so as to reduce juvenile crime, delinquency, and recidivism; and

(3) Develop and maintain state-of-the-art service programs, delivery systems, and facilities that will transform the District's juvenile justice system into a national model.

(b) The Department shall be headed by a Director, who shall report to the Mayor. The Director shall be appointed by the Mayor with the advice and consent of the Council, pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

(c) The Director shall have a minimum education of a Masters Degree in Criminal Justice, Social Work, or some related field, or shall possess equivalent work-related experience in the management of juvenile justice programs.

(d) The Director shall have authority over the Department, its functions, and personnel, including the power to re-delegate to employees authority as, in the judgment of the Director, is warranted in the interests of efficiency and sound administration.

(e) The Director shall have authority to organize and reorganize the personnel and property transferred herein within any organizational unit of the Department, including creating offices within the Department, as necessary, and exercising any other powers necessary and appropriate to implement the provisions of this title.

(f) The Director shall have authority to implement an aggressive, District-wide program of reform within the juvenile justice system that leads to a system that can serve as a nationwide model.

Sec. 103. Organization.

(a) The Department shall have sufficient staff, supervisory personnel, and resources to accomplish the purposes of this title. There is hereby established in the Department:

(1) The Office of the Director, which shall be responsible for all administrative activities, such as human resources, technology and information services, facilities management and transportation, contracting and procurement, and budget and financial services, with subordinate staff offices responsible for overall management responsibility of the office;

(2) The Division of Secure Programs, whose Deputy Director shall be responsible for operations at the Oak Hill Youth Center, the Youth Services Center, and any other Department secure facility;

(3) The Division of Court and Community Programs, whose Deputy Director shall be responsible for aftercare services for committed youth and prevention programs;

(4) The Division of Performance Management, whose Deputy Director shall be responsible for licensure, regulation, technical assistance, training, quality assurance, quality improvement, risk management, program evaluation, data collection, contract monitoring, policy formulation, legislative affairs, and monitoring and reporting on compliance with standards, policies, court orders, laws, rules, and regulations;

(5) The Office of Internal Integrity, which shall be responsible for the swift and competent internal investigations into allegations and indications of unprofessional and unlawful conduct by employees or contractors of the Department; and

(6) The Office of the General Counsel, which shall be responsible for reviewing legal matters pertaining to the Department and its programs, analyzing existing or proposed federal or local legislation and rules, managing the development of new legislation and rules, and coordinating legal services to the Department, and shall be headed by a General Counsel, who shall be in the Senior Executive Attorney Service of the Legal Service as an at-will employee under the direction and control of the Attorney General for the District of Columbia.

(b) Notwithstanding the proposed organization established in subsection (a) of this section, the Director of the Department shall have the authority, pursuant to section 102(e), to organize and reorganize the organizational structure set forth in this section.

Sec. 104. Duties.

The primary duties of the offices of the Department are to plan, program, operate, manage, control, and maintain a juvenile justice system of care, rehabilitative service delivery, and security that meets the treatment needs of youth within the juvenile justice system and that is in accordance with national juvenile justice industry standards and best practices. These duties include:

(1) Providing services for committed and detained youth and PINS that balance the need for rehabilitation and holding youth accountable for their actions in the context of public safety;

(2) Facilitating and enhancing intra-District coordination of services and supports for youth in the juvenile justice system;

(3) Establishing and adopting best practices standards for the provision of residential, restorative, and rehabilitative services to youth in the juvenile justice system consistent with the standards of the American Correctional Association or those of another nationally accepted accrediting body;

(4) Employing a cadre of juvenile justice professionals who are highly skilled and experienced with the principles, goals, and the latest advancements of juvenile rehabilitation and treatment provision;

(5) Establishing through contracts, provider agreements, human care agreements, grants, memoranda of agreement or understanding, or other binding agreements a system of secure and community-based facilities and rehabilitative services with governmental bodies, public and private agencies, institutions, and organizations, for youth that will provide intervention, individualized assessments, continuum of services, safety, and security;

(6) Establishing a system that constantly reviews a youth's individual strengths, needs, and rehabilitative progress and ensures placement within a continuum of least restrictive settings within secure facilities and the community;

(7) Assessing the risks and needs of youth, and determining and providing the

services needed for treatment for substance abuse and other services;

(8) Developing and maintaining a system with other governmental and private agencies to identify, locate, and retrieve youth who are under the care, custody, or supervision of the Department, who have absconded from an assigned secure governmental facility, or community shelter home, group home, residential facility, or foster care placement;

(9) Developing and maintaining state-of-the-art systems to monitor accountability and to enhance performance for all Department programs, services, and facilities;

(10) Developing and maintaining an ongoing training program for employees that ensures continuous development of expertise in juvenile justice service delivery;

(11) Taking a leadership role in the provision of training and technical assistance to non-governmental juvenile justice service providers that fosters the development of high-quality, comprehensive, cost-effective, and culturally competent delinquency prevention and juvenile rehabilitative services for the youth and their families;

(12) Developing and maintaining a capital improvement, licensing, and regulating program that ensures governmental and private institutions maintain up-to-date residential facilities, group homes, and shelter facilities to serve the safety, the security, and the rehabilitative needs of youth in the juvenile justice system; and

(13) Enforcing all laws, rules, regulations, court orders, policies, and procedures necessary and appropriate to accomplish the duties of the Department.

Sec. 105. Special authorities of the Department.

(a) When the Department has physical custody of a youth pursuant to D.C. Official Code § 16-2320, it may:

(1) Authorize a medical evaluation, emergency medical, surgical, or dental treatment, a psychiatric evaluation, or emergency outpatient psychiatric treatment, when reasonable efforts to secure the consent of the youth's parents or legal guardian have been made, but a parent or legal guardian cannot be consulted; and

(2) Authorize non-emergency, routine outpatient medical, dental, and psychiatric treatment or an autopsy, when reasonable efforts to consult the parent or legal guardian have been made, but a parent or legal guardian cannot be consulted.

(b) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities and in doing so it may require:

(1) Random searches of all buildings and grounds for contraband;

(2) Random and probable cause searches of persons and personal property entering or on the grounds for contraband;

(3) Use of metal detectors and visual inspections, dog sniffers, or other means to inspect any bag, luggage, or container being carried into or on the grounds for contraband; and

(4) Seizure, confiscation, and retention of contraband as a result of a search or inspection conducted pursuant to paragraphs (1) through (3) of this subsection.

(c) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it shall require the testing of all prospective and existing Department staff and contractual employees or other applicable personnel for drug and alcohol use, in accordance with section 2022 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective April 23, 1999 (D.C. Law 12-227; D.C. Official Code § 1-620.22).

(d) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it shall test youth for the presence of substances, which may pose risks to the health and safety of youth or others.

(e) The Department shall protect the safety, security, discipline, and order of Department and contractor facilities, programs, and services, and in doing so it may require all prospective and existing employees or staff assigned to any Department facility or any provider of services to youth in any Department- contracted facility, group home, or shelter to provide National Crime Information Center ("NCIC") criminal background checks in accordance with Title II of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, passed on 2nd reading on December 21, 2004 (Enrolled version of Bill 15-607).

(f) The Department shall protect the safety, security, discipline, and order of Department facilities, residential facilities, programs, and services, and in doing so it may require all prospective and existing employees or staff at any Department-owned or contract facility, or program that provides services to youth in the juvenile justice system, be subject to a child protection registry check in the District of Columbia and their current and prior states of residence.

(g) The Department may:

(1) Prohibit the hiring of or require the termination of persons seeking employment or employed by the Department, or providers of services either under contract, grant, or agreement, or persons who will provide or do provide direct services or who have access to youth in the juvenile justice system, who have been convicted by a court of competent jurisdiction of:

- (A) Child abuse or child neglect;
- (B) Rape or sexual assault;
- (C) Homicide or felony assault; or
- (D) Any other crime, as defined by rules issued by the Mayor;

(2) Require all Department facilities or programs under contract, grant, or agreement to obtain written approval of the Department prior to employing any person who has been convicted or has served a sentence in the past 10 years for any of the following offenses or their equivalents:

- (A) Fraud;
- (B) Burglary;
- (C) Drug-related crimes; or
- (D) Any other crime, as defined by rules issued by the Mayor; and

(3) Prohibit the assignment of persons employed by the Department, or providers of services, either under contract, grant, or agreement, that have access to youth into positions that may place them in contact with youth if that person is alleged to be a perpetrator of abuse or neglect in a currently pending child abuse or neglect investigation.

(h) The Department may take any other actions necessary to promote the safety and well-being of the youth in the Department's custody.

(i) A criminal or civil conviction for any of the charges listed within subsection (f)(1) of this section or identification as a perpetrator of abuse or neglect as determined by the investigation conducted pursuant to subsection (f) of this section in this or any jurisdiction shall constitute cause for termination.

(j) Except as expressly provided by this title, all information obtained pursuant to this section shall be considered confidential and only released to appropriate officials, as determined by the Director of the Department.

Sec. 106. Confidentiality of youth records.

(a) Records pertaining to youth in the custody of the Department or contract providers shall be privileged and confidential and shall only be released pursuant to D.C. Official Code § 16-2332.

(b) Notwithstanding the confidentiality requirements of this section, the Mayor may establish rules for the disclosure of electronic Department data to other District government agencies statutorily charged with the care, treatment, and rehabilitation of youth in the District's custody for purposes of coordination care, treatment, and rehabilitation services for youth and Department tracking and trending reports; provided, that the Department data is maintained, transmitted, and stored in a manner to protect the security and privacy of the youth identified and to prevent the disclosure of any of the data or information to any individual, entity, or agency not designated in this subsection.

Sec. 107. Rules; authority to execute contracts and grants.

(a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this title.

(b) The Mayor may execute contracts, grants, and other legally binding documents to implement the provisions of this title.

Sec. 108. Transfers.

(a) All real or personal property, leased or assigned to the Department of Human Services on behalf of the Youth Services Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions and operations of the Department of Human Services as set forth in, and utilized to carry out, section III (S) and

III (W) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to the Youth Services Administration are hereby transferred to the Department.

(b) All of the authority and functions of the Department of Human Services as set forth in section III (S) and III (W) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to the Youth Services Administration are hereby transferred to the Department.

(c) All real and personal property, Career and Excepted Service, Management Supervisory Service, trainee positions, assets, records, obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, operations, and administration of the Youth Services Administration shall become the property of the Department.

(d) All real and personal property, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the "Compact Administrator" of the Interstate Compact on the Placement of Children, as authorized by the Interstate Compact on the Placement of Children Authorization Act of 1989, effective September 20, 1989 (D.C. Law 8-30; D.C. Official Code § 4-1421 *et seq.*), shall become the property of the Department.

(e) All positions, real and personal property, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to the powers, duties, functions, and operations of the Youth Services Administration of the Department of Human Services in operating and regulating secure and residential facilities, juvenile justice services, programs, and supports, shall be transferred to the Department.

(f) The Department shall recognize and bargain with collective bargaining representatives that have been duly certified by the Public Employee Relations Board and shall assume and be bound by all existing collective bargaining agreements entered into by the Youth Services Administration of the Department of Human Services, if those agreements have been approved by the Council, unless Council approval is not required by law, and, during a control year, as defined in D.C. Official Code § 47-393(4), the District of Columbia Financial Responsibility and Management Assistance Authority.

(g) Every employee of the Youth Services Administration shall be transferred to the Department. An employee transferred to the Department shall be transferred in the same classification he or she held at the Department of Human Services, Youth Services Administration, or other department, at the time of the transfer. Subject to the District's authority to convert them to the Management Supervisory Service and the Legal Service consistent with the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), transferred employees shall retain all rights and privileges related to their individual pay and benefits, including retirement status, so long as the employee is continuously employed by the Department or the District government, including any applicable rights and privileges provided

for in section 7 of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3375; D.C. Official Code § 44-906).

(h) The following rules and regulations pertaining to the licensing, oversight, and regulation of residential placement facilities for detained, delinquent youth and PINS shall remain in full force and effect unless and until repealed or superseded by action of the Department:

(1) Chapter 62 of Title 29 of the District of Columbia Municipal Regulations (Licensing of Youth Shelters, Runaway Shelters, Emergency Care Facilities and Youth Group Homes); provided, that the Department shall perform all functions that Chapter 62 vests in the Department of Human Services, Youth Services Administration, and as the contracting entity shall perform all services, licensure, oversight and investigations placement, and monitoring functions previously performed by the Department of Human Services, Youth Services Administration, pursuant to the authority granted by the Youth Residential Facilities Licensure Act of 1986, effective August 13, 1986 (D.C. Law 6-139; D.C. Official Code § 7-2101 *et seq.*), except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(2) Chapter 63 of Title 29 of the District of Columbia Municipal Regulations (Licensing of Independent Living program for Adolescents and Young Adults); provided, that the Department shall perform all functions that Chapter 63 vests in the Department of Human Services, Youth Services Administration, and as the contracting entity shall perform all services, licensure, oversight and investigations placement, and monitoring functions previously performed by the Department of Human Services, Youth Services Administration, except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

(3) Chapter 12 of Title 29 of the District of Columbia Municipal Regulations (Community Placement of Juvenile Offenders); provided, that the Department shall perform all functions that Chapter 12 vests in the Department of Human Services, Youth Services Administration, except those functions which have been delegated, under the discretion of the Director of the Department, by memoranda of understanding or agreement.

Sec. 109. Delegation and redelegation of authority.

The Department is the successor in interest to all committed and detained youth and Person in Need of Supervision related authority delegated to the Department of Human Services, and the Director of the Department is authorized to act, either personally or through a designated representative, as a member of any committees, commissions, boards, or other bodies that include as a member the Director of the Department of Human Services.

Sec. 110. Repealer.

All organizational orders and parts of orders in conflict with any of the provisions of this title are repealed, except that any regulations adopted or promulgated by virtue of the

authority granted by these orders shall remain in force until properly revised, amended, or repealed.

TITLE II.

Sec. 201. Section 301(q) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(17)), is amended as follows:

Amend
§ 1-603.01

(a) Paragraph (51) is amended by striking the word "and" at the end and inserting a semicolon in its place.

(b) Paragraph (52) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(c) A new paragraph (53) is added to read as follows:

"(53) Department of Youth Rehabilitation Services."

TITLE III.

Sec. 301. Fiscal impact statement.

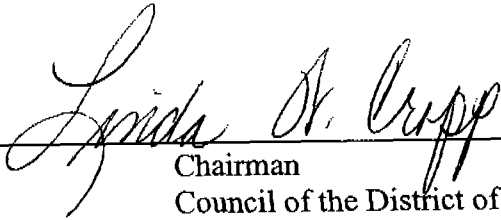
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).


Sec 302. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

DISTRICT OF COLUMBIA REGISTER

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia

APPROVED
January 21, 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-750

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 19, 2005*Codification
District of
Columbia
Official Code*

2001 Edition

2005 Winter
Supp.West Group
Publisher

To amend Chapter 10 of Title 47 of the District of Columbia Official Code to exempt from taxation certain property owned by Golden Rule Place, Inc., Douglass Knoll Cooperative Limited Partnership, 1728 W Street Limited Partnership, and Wagner Gainesville Limited Partnership.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Douglass Knoll, Golden Rule, 1728 W Street, and Wagner Gainesville Real Property Tax Exemption Act of 2004".

Sec. 2. Chapter 10 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation "47-1065. Douglass Knoll, Golden Rule, 1728 W Street, and Wagner Gainesville Rehabilitation Projects, lot 840 in Square 525, lots 34 through 36 in square 5734, lots 42 through 44 in square 5835, lot 166 in square 5778, lots 38 through 44 in square 5894, and lots 69 through 72 in square 5895." at the end.

(b) A new section 47-1065 is added to read as follows:

"§ 47-1065. Douglass Knoll, Golden Rule, 1728 W Street and Wagner Gainesville Rehabilitation Projects, lot 840 in Square 525, lots 34 through 36 in square 5734, lots 42 through 44 in square 5835, lot 166 in square 5778, lots 38 through 44 in square 5894, and lots 69 through 72 in square 5895.

"(a) The real property, described as lot 840 in square 525 in the District of Columbia, shall be exempt from real property taxation for a period of 15 years so long as the property is:

"(1) Owned by Golden Rule Place, Inc., a tax-exempt organization;

"(2) Used as a qualified low-income housing project pursuant to a land use restriction agreement with the District of Columbia Housing Finance Agency; and

"(3) Receives assistance from one or more federal Housing and Urban Development programs pursuant to section 542 of the Housing and Community Development Act of 1992, approved October 28, 1992 (106 Stat. 3794; 12 U.S.C. § 1715z-22) ("Section 542 Program").

New
§ 47-1065

"(b) The real property, described as lots 34 through 36 in square 5734 and lots 42 through 44 in square 5835, shall be exempt from real property taxation for a period of 15 years so long as the property is:

"(1) Owned by Wagner Gainesville, LP and controlled by its general partner, The Non-Profit Community Development Corporation Housing Development, Inc., a tax-exempt organization ("NPCDC"); and

"(2) Used as a qualified low-income housing project pursuant to an indenture of restrictive covenants with the Department of Housing and Community Development.

"(c) The real property, described as lot 166 in square 5778, shall be exempt from real property taxation for a period of 15 years so long as the property is:

"(1) Owned by 1728 W Street LP, and controlled by its general partner the Non-Profit Community Development Corporation of Washington, D.C., Inc., a tax-exempt organization; and

"(2) Used as a qualified low-income housing project pursuant to an indenture of restrictive covenants with the Department of Housing and Community Development.

"(d) The real property, described as lots 38 through 44 in square 5894 and lots 69 through 72 in square 5895 in the District of Columbia, shall be exempt from real property taxation for a period of 15 years so long as the property is:

"(1) Owned by Douglass Knoll Cooperative Limited Partnership and controlled by its general partner NPCDC Housing Development, Inc., an organization solely owned and controlled by the Community Development Corporation, a tax-exempt organization;

"(2) Used as a qualified low-income housing project pursuant to a restrictive land use agreement with the Housing Finance Agency; and

"(3) Receives assistance from a Section 542 program."

Sec. 3. Section 2 shall apply as of April 1, 2004.

Sec. 4. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

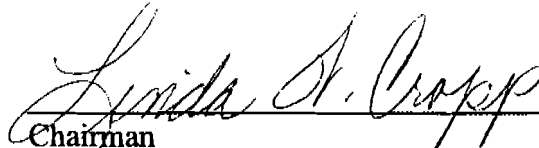
Sec. 5. Fiscal impact statement.

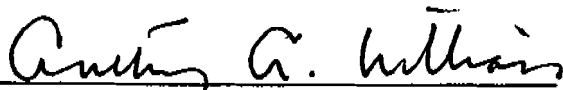
The Council adopts the fiscal impact statement contained in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED
January 19, 2005